(28,596)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1921.

No. 641.

SCITUATE LIGHT & POWER COMPANY, PLAINTIFF IN ERROR,

vs.

CITY OF PROVIDENCE; WALTER L. CLARKE, AS CITY TREASURER; B. THOMAS POTTER, ET AL., &c.

IN ERROR TO THE SUPERIOR COURT OF THE STATE OF RHODE ISLAND.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., FEBRUARY 6, 1922.

a STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS:

At the Superior Court of said State Holden at Providence, in said County of Providence, for the Counties of Providence and Bristol.

Equity. No. 5389.

SCITUATE LIGHT & POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

Be it Remembered: That in the above entitled cause on the 11th day of April, A. D. 1921, the Scituate Light & Power Company, a corporation, preferred to said Court against Walter L. Clarke, City Treasurer, and others, its bill of complaint, and subpœna having been duly issued and served upon all the respondents named in said bill of complaint, appearance was entered and a joint and several answer was filed by said respondents. Thereafter, upon the 27th day of April, A. D. 1921, the fact having been brought to the attention of the Court that the constitutionality of an act of the General Assembly was clearly questioned by allegations of said bill of complaint and was brought in question upon the record and
b also the provisions of Section 1 of Chapter 298 of the General Laws of Rhode Island, said constitutional questions were duly certified by said Superior Court to the Supreme Court of said State to be heard and determined.

Subsequently, upon the sixth day of July, A. D. 1921, said Supreme Court after hearing rendered its decision holding Chapter 1278 of the Public Laws of Rhode Island passed at the January Session A. D. 1915 not in violation of either Article V or Article XIV of the Amendments of the Constitution of the United States and sent back to said Superior Court for further proceedings the papers in the cause with said decision certified thereon, and thereafter, upon the 12th day of August, A. D. 1921, in said Superior Court, after hearing, said Court pursuant to said decision of the Supreme Court entered its decree dismissing said bill of complaint with costs to the respondents.

1 Superior Court of the State of Rhode Island, &c., for the Counties of Providence and Bristol.

Equity. No. —.

SCITUATE LIGHT & POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

Bill of Complaint.

To the Hon. the Superior Court of the State of Rhode Island, Sitting in Equity, at Providence, Within and for the Counties of Providence and Bristol:

The Scituate Light and Power Company, a corporation created by act of the General Assembly of the State of Rhode Island, brings this its bill of complaint against the City of Providence, a municipal corporation, Walter L. Clarke, of said Providence, in the County of Providence and State of Rhode Island, City Treasurer thereof, and against B. Thomas Potter, William P. Vaughn, William A. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood and
2 Walter F. Slade, all of said Providence, constituting the Water Supply Board of said City, and thereupon your orator complaining says:

1. That it is a corporation created under an act of the General Assembly of said State of Rhode Island and carrying on the business of furnishing light, heat and motive power by electricity and otherwise in said State in the Town of Scituate and adjoining towns in the County of Providence; that it controls and operates, by ownership, lease and otherwise, certain water powers and water privileges within said Town of Scituate, used and utilized for the purpose of generating electricity for the purpose aforesaid, which it distributes over large portions of said town to the users and purchasers thereof, and that the constant operation of its electric plants and generators has become and is of public necessity to said Town of Scituate and to the industry thereof.

2. That said City of Providence is a municipal corporation, and was in the year 1915 and still is desirous of increasing and enlarging its public water supply.

3. That at the session of the General Assembly of the State of Rhode Island for the year 1915 was passed an act entitled, "An Act to Furnish the City of Providence with a Supply of Pure Water." Said act was approved on the 21st day of April, 1915, and is also denominated as Chapter 1278 of the Public Laws of 1915.

That in and by said act a board of commissioners, to be known as the Water Supply Board of the City of Providence was established in and for the city, consisting of the seven persons then members of the committee relative to increased water supply in the city, appointed by the city council of said city under resolution number 19, approved January 7, 1913, and resolution number 423, approved December 6, 1913, and Chapter 69 of the ordinances, approved December 9, 1914, the same being said individuals hereinabove mentioned as defendants and as constituting the water supply board of said city, the membership whereof has remained without change up to the present time and now constitutes said board.

4. That in and by said act it is provided in Section 3 thereof that said board, as soon as may be, shall investigate and determine as to whether a part of the north branch of the Pawtuxet River and the water shed tributary thereto would be the most available and desirable source for a supply of pure and wholesome water for the City of Providence and for any territories now supplied, or hereafter supplied under the provisions of said act, by means of the waterworks of said city, and if that source is approved, said board shall proceed to make a plan, locating a storage reservoir or reservoirs on and adjoining the said branch of said river, including any tributaries to said branch, and an aqueduct to carry water from said reservoir or reservoirs to the waterworks of said city at Sockanosset, and said board may at any time change or modify such plan or any amended plan. And, in Section 4 of said act, that after making such a plan, said board from time to time may acquire by purchase for and in the name of said city, and said city may hold and use, such lands and such estates, easements, rights and interests therein, and such waters and water flowage rights and privileges and rights to hold and take water, as are necessary or desirable for such water supply and such reservoir or reservoirs and such aqueduct, and any dams, sluices, culverts, water and land ways and works connected therewith or incidental thereto, and for executing the work of all kinds, including removing and disposing of surplus earth and other materials and for protecting and preserving the waters in such reservoir or reservoirs and the waters of said river branch and its tributaries flowing thereto, from pollution and from the deposit therein of any matters which would reduce the quality or value of any such waters as a potable water supply, and for filtration and other works for treating such water supply, and for carrying out the purposes, directions and requirements of said act, provided, however, that said board shall not make any contract for any such purchase until the city council of said city shall have first made due provision for supplying the necessary funds therefor.

5. But said act makes no provision for determining said fundamental question as to whether a part of the north branch of the Pawtuxet River and the water shed tributary thereto is the most available and desirable source for said pure and wholesome water for the City of Providence and for any territories now supplied or hereafter supplied under the provisions of said act by means of the water

works of said city, except ex parte by said water board without appeal therefrom, or any opportunity for the decision of said question by any impartial tribunal.

6. Said act further provides in Section 5 thereof that the City of Providence is thereby authorized from time to time, in the manner thereinafter provided, to acquire by condemnation any lands, improved or unimproved, and any estates, easements, rights and interests in any lands, which are included within the area enclosed by the boundary line colored red on the accompanying plat marked, "Plat of lands enclosed by red lines hereon, mostly in the town of Scituate, which may be taken by the City of Providence for water supply purposes, Samuel M. Gray, civil engineer, 1915," a plat of a part of said line at North Scituate being also shown on the accompanying and supplemental plat, entitled, "Map showing location of condemnation line at and near North Scituate, Samuel M. Gray, civil engineer, 1915," and which the city council of said city deems necessary for the location, construction, maintenance and operation of a reservoir or reservoirs and any dams, sluices, culverts, water and land ways, and works connected therewith or incidental thereto, and also any lands and any estates, easements, rights and interests in any lands within said area which said city council deems necessary for protecting and preserving the waters in such reservoir or reservoirs and the water of said river branch and its tributaries flowing thereto from pollution and from the deposit therein of any matters which would reduce the quality or value of any of such waters as a potable water supply, and for filtration and other works for treating such water supply, and for carrying out the purposes, directions and requirements of said act, and also any lands and any estates, easements, rights and interests in any lands which said city council deems necessary for the location, construction, maintenance and operation of an aqueduct in a strip of land from such reservoir or the lower of any such reservoirs to said water works at Sockanosset, not to exceed two hundred feet in width, and for ways to such strip of land from the nearest public highways, and for executing the work at, adjoining or near the portals and shafts of any tunnel construction designed as part or parts of such aqueduct, including removing and disposing of surplus earth and other materials. And further provides that said city may take any such lands in fee simple or any estate, easement, right or interets in any such lands absolutely, except as in said act thereafter provided, and that upon the pasage of said act, said plats shall be kept on file in the office of the secretary of state, and said boundary line enclosing said area is subsequently described in said act in Section 5 thereof, which said plats were after the passage of said act placed and are kept on file in the office of the secretary of state, reference to said plats so on file and to the description of said boundary line in said act are hereby referred to as a part hereof.

7. But that said act leaves the final decision as to the necessity for the taking and of what shall be taken in each case to the city council of said city for its ex parte decision, without appeal therefrom

or without any opportunity for an impartial consideration and determination thereof.

8. That in and by Section 6 of said act, the City of Providence was thereby authorized from time to time, in the manner hereinafter provided, to acquire absolutely by condemnation, the waters of said branch of said river and its tributaries, or any part or parts thereof, included within said area shown within red lines on said plat, and any water or flowage rights or privileges appurtenant to or connected with said area or any part or parts thereof, and
7 any waters flowing into such reservoir or reservoirs, and to there hold such waters and to appropriate and divert the same for such water supply; provided, however, that said city shall not hold or divert any such waters until such a reservoir or reservoirs is or are ready for use, and also further provided as to the flow of water below such reservoirs.

9. That the question of the necessity for said City of Providence to acquire by condemnation such waters, water and flowage rights or privileges and waters flowing into such reservoir or reservoirs and to hold the same, (whether within or without said red lines), is left wholly to the ex parte determination of the City of Providence in the manner provided in the act, without appeal from said decision or any opportunity for submitting the decision of such question to any impartial tribunal, other than the regulation of the flow of such waters from such containing reservoirs.

10. That it is provided in and by Section 7 of said act that in case a part only of any farm or of any lot or tract of land is taken under any of the provisions of said act, which part is included within said area shown within red lines on said plat, and the remainder or any portion thereof, whether or not situated within said area, is damaged or lessened in value by such taking, the owner or owners thereof may surrender to said city the portion so damaged or lessened in value, by giving to said board or the city council of said city written notice of such surrender, describing the land surrendered, within one year after said taking, whereupon the portion so surrendered shall be deemed to be included in such taking and shall vest in said city in fee simple and said city shall be liable to pay, and such owner
8 or owners may recover from it, just compensation for the same in any proceedings brought by them for the recovery of damages for land taken under said act.

11. And it is further provided in and by Section 7 of said act that in case any land included in said area has a mill thereon, which mill is taken under any of the provisions of this act, the owner or owners thereof may surrender to said city any or all their reservoirs, dams, sluices, culverts, waterways and works connected therewith or incidental therto, and any or all their water rights or flowage rights used or acquired for use in connection therewith, whether the same are or are not situated within said area, by giving to said board or the city council of said city written notice of such surrender, de-

scribing what is so surrendered, within one year after such taking; whereupon such surrendered real estate and improvements thereon, and water rights and flowage rights shall be deemed to be included in such taking and shall vest in said city in fee simple or absolutely, and said city shall be liable to pay, and such owner or owners may recover from it, just compensation for the same in any proceedings brought by them for the recovery of damages for land taken under said act.

12. It is further provided in Section 8 of said act that within any lands included in said area, which are acquired or taken by said city thereunder, or are owned and held by said city, for the purpose of such reservoir or reservoirs and water supply, or for the protection thereof, upon such acquisition or taking or ownership of the same, any and all public highway rights or easements in any part or parts of such lands shall terminate, and thereafter said city may close any and all public highways therein, or if said city shall leave open any such highway or highways or permit the same to be traveled, they nevertheless shall remain the private ways of said city, and any persons or the public using the same shall not thereby acquire any right of way or public easement of travel therein, except as in said act provided, and provides for the laying out of any highways and changing of grade of highways within said act by said city, and further provides that the city may acquire by purchase or condemnation, in the manner therein provided, any lands or easements therein, which the city council of said city deems necessary to lay out and build such new roads or highways or to relocate any parts of any such existing highways, or which are required to furnish any new route or location for any portion or portions of the railroad of the Providence & Danielson Railway Company, as will more fully and at length appear by examination of said Section 8 of said act.

13. But said act does not provide for the decision of the question of the public necessity for such new highways or relocation of parts of existing highways, except by an ex parte decision of the city council without appeal therefrom or the decision of such question by an impartial tribunal, although it does provide for the submission and approval of the plans of the new roads to the board of state highways or to the town council of said Scituate.

14. Said act further provides in Section 12 thereof that in case any land included in said area, within the red lines on said plat or elsewhere in said Town of Scituate, has a mill thereon which is taken under said act, the owner or owners of such mill may surrender to said City of Providence the machinery in use or set up in said mill at the time of such taking, by giving to said board or other authorized representaive or representatives of said city or the city council thereof, within six months after taking, written notice of its surrender of the same to said city, whereupon said city shall be liable to pay for the machinery so surrendered and actually delivered to said city the fair value of the same at the time

of such delivery, as part of the damages for such taking, and provides for the purchase of such machinery as such owner or owners may offer to sell to it, and at such fair price as may be agreed upon by said city and such owner or owners.

15. And said act further provides in said Section 12 that in case the owner of any mill taken by said city under the provisions of said act shall not surrender such machinery, he shall be allowed a reasonable time in which to remove the same; and, in case the city and said owner are not able to agree on what is a reasonable time for such removal, the time therefor shall, on petition in equity by said owner or said city, be determined by the Superior Court for Providence County, taking into consideration all the circumstances of the case and the needs of both parties, with the right to make such orders and decrees in relation to the time and manner of carrying on the work of removal or the work of the city interfering therewith as justice shall require; and, in case the necessities of said work of said city require such machinery to be removed at a time or in a manner not otherwise reasonable therefor, said Court may make such allowance as it shall deem equitable to compensate said owner for the special damages, if any, suffered by him by reason of the removal of said machinery at the time and in the manner so required by
11 the necessities of such work of said city, over and above what would have been occasioned by the removal at a time and in a manner which would have been otherwise reasonable, but for such special need of said work of said city.

16. And said act further provides in said Section 12 thereof that in case said owner does not surrender such machinery to said city, the city shall pay to him as a part of his damages for the taking of said mill, the reasonable expense and cost of removing such machinery, from its old location at said mill to a new location within the New England states, of setting up such machinery in the place therein in which it is to be used by said owner; that the amount of such reasonable cost and expense, if not agreed upon by the parties, shall be determined in the same manner as is provided in said act for the determination of damages for the taking of lands, or interests or rights therein.

17. But said act makes no provision for the payment of the whole or any part of the reasonable cost of removing such machinery from its old location at such mill to a new location outside of the New England states, although a location outside of the New England states shall be the most available place for the use of such machinery by its owner if compelled to abandon the old location and although the reasonable cost of removal to such new location outside of the New England states should not be in excess of the cost of removal to a suitable new location within the New England states.

18. Said act also provides in Section 15 thereof that the owner or owners of any lands not taken under the provisions of said act, but contiguous to any land in said area shown within red

lines, on said plat acquired or taken by said city thereunder, which is directly or indirectly decreased in value by reason of such acquisition or taking by said city, shall have the right to claim and recover damages for such decrease in value, and said board may agree with such owner or owners as to the amount of such damages, and thereupon said city shall pay the same to such owner or owners forthwith; and, in default of such agreement, such damages shall be determined and be collectible in the same manner as is in said act provided for the determining and collecting the damages for land taken thereunder: provided such owner or owners shall file in said superior court for Providence county his or their petition or application for an assessment of such damages within three years after the date of the passage of said act.

19. That it is further provided in Section 16 of said act that the owner or owners of any business located on land situated in said Town of Scituate or on said north branch of the Pawtuxet River and established prior to the passage of said act, which is directly or indirectly damaged or decreased in value by reason of the acquisition or taking by said city of any land or lands or the acquisition, taking or diverting of any waters of said north branch of the Pawtuxet River or any waters tributary thereto under the provisions of said act, shall have the right to claim and recover just compensation for such damages or decrease in value, and said board may agree with such owner or owners as to the amount of such just compensation, and thereupon said City shall pay the same to such owner or owners forthwith, and, in default of such agreement, such just compensation shall be determined and be collectible in the same manner as is thereafter in said act provided for determining and collecting damages for land taken thereunder, provided such owner or owners shall file in said Superior Court for Providence County or the county in which is situated the land on which such business is located, his or their petition or application for an assessment of such damages, not later than one year after said city shall begin to draw water from such reservoir or reservoirs for such water supply for said city.

20. But that said act makes no provision for the recovery of damages by the owner or owners of any business located on land taken by said city under said act which was in good faith established after the passage of said act but prior to the taking of said land by said city.

21. Said act provides in and by Section 18 thereof that said Town of Scituate, the City of Cranston, and such water or fire district therein now or hereafter incorporat[illegible] and such other town, city or water or fire district now or hereafte[illegible] incorporated having any of its territory included in the drainage [illegible]ater of said north branch of said Pawtuxet River, or of the drainage district of said Pawtuxet River, below the junction of the north and south branches of said river, shall have the right to take and receive water from said storage reservoir or reservoirs, said aqueduct or the reservoir of said city as

said Sockanosset, for use for domestic, fire and other ordinary municipal water supply purposes in the Town of Scituate or the City of Cranston, or such water or fire district therein, or in any part or parts of such territory or territories of such other town, city or water or fire district as are included in either of said drainage districts where there is no public water supply being furnished by
14 any public or quasi public body or corporation at the time such town, city or water district decides to take such water, and that the Town of Warwick or any water or fire district therein shall have the further right to take and receive water as aforesaid for use as aforesaid in any part of its territory lying easterly of the New York, Providence and Boston railroad line of the New York, New Haven and Hartford Railroad Company and northerly of Greenwich Bay, where there is no public water supply being furnished as aforesaid. Provisions are made for the making of connections and the furnishing of meters or other devices for ascertaining the quantity of water taken, and for reasonable rules and regulations from time to time by the City of Providence or its duly authorized officer or officers in charge of its water works. The right to have such water as aforesaid is limited by said act to an extent each month not exceeding an average per day of one hundred gallons per capita of the number of inhabitants of such parts of its territory or territories as are served from such water suply source or sources, as such number of inhabitants was shown by the last preceding census of the United States or of the State of Rhode Island, unless and to the extent and for the time only that said officer or officers of said City of Providence shall consent to the taking by such town, city or water or fire district of a greater quantity of such water. The act provides for the payment by such town, city and water or fire district to the City of Providence such fair wholesale rates or charges for the quantity of water taken by it as aforesaid, and at such times, and the rates fixed to continue during such periods, as may be mutually agreed upon, or in default of agreement as may be determined by arbitration as fixed in said act.

15 Said act further provides that the City of Providence may furnish water from such water supply source or sources to any incorporated water company for use as aforesaid in any territory included in either of said drainage districts, where at the time of beginning to furnish such water there is no public water supply, whether by a public or quasi public body or corporation other than the water supply of such water company, in any part of the territory that is supplied by such water company, or for use as aforesaid in said territory in Warwick easterly of said railroad line and northerly of said Greenwich Bay.

22. But said act does not provide for the payment by said outlying towns, cities or water and fire districts and water companies of any part of the expenditures or indebtedness incurred by said City of Providence in furnishing such water supply, nor does it make any provision for any payment by said cities, towns, water and fire districts and water companies of any sum or sums into the treasury of the City of Providence to be applied to the sinking fund

in payment of indebtedness incurred in furnishing said water supply, the burden for furnishing such supply being wholly placed on the City of Providence and its taxpayers, without providing for the assumption of any part thereof by such other communities and other corporations to which said city is allowed or compelled to furnish water from said water supply.

23. That said act further provides by Section 20 thereof that said board and the engineers, surveyors and other agents or servants of said board are thereby authorized to enter upon any lands or waters within said area shown within red lines on said plat, or else-
16 where, for the purpose of making and to make any examinations, investigations, or surveys required for the efficient exercise or performance of any or all the powers or duties of said board under said act, and that said city shall pay to the owner or owners of such lands any and all damages suffered by them by reason thereof, and if the amount of any such damages is not agreed upon or paid, such owner or owners may recover the same of said city as thereafter in said act provided; any such damages relative to any lands taken under said act accruing during any time prior to the time of such taking may be recovered as part of the damages for the taking of such lands.

24. That said act in Section 21 thereof further provides that said city from time to time may lease any of its lands acquired by purchase or condemnation under said act, which are not required for such reservoir or reservoirs or other works, but are held to protect and preserve the waters thereof and the waters of said river branch and its tributaries from pollution, for such consideration or rent and upon such terms and conditions, including especially any restrictions upon the use of such leased lands and any buildings or improvements thereon, to prevent any such pollution, as may be prescribed by said board or authorized representative or representatives of said city or by the city council thereof, and until otherwise provided by said city council said board in its discretion and in the name and behalf of said city may make any such leases.

25. But that the reasonableness of the taking of such lands and the purpose for which the land is held is left to the ex parte decision of said city without appeal therefrom to any disinterested tribunal.

17 26. That said act in Section 23 thereof further provides that relative to every taking by said city under the authority of said act of any land or lands, or any estates, easements, rights or interests in any land or lands, or any waters or water rights or privileges, said board or other authorized representative or representatives of said city, shall prepare a description of the same as proposed to be taken and also a plat showing such land or lands, together with a list of the owners thereof and persons interested therein, so far as known to said board or such representative or representatives, and shall submit such description and plat, together with such list, to the city council of said city for its action on such proposal.

27. And said act in said Section 23 thereof further provides that whenever the city council of said city shall pass any resolution to take any land or lands, or any estates, easements, rights or interests in any land or lands, or any waters or water rights or privileges, for any such purpose or purposes under any authority in said act contained, said city council within three months from the date of the passage of such resolution shall cause to be filed in the office of the town clerk or city clerk of each town or city in which any such land or lands lie, or in which lie any such land or lands which would be damaged by the taking of any such waters or water rights or privileges, a statement containing a description of such land or lands or waters or water rights or privileges and specifying the nature or extent of the title therein taken, as certain as is required in a common conveyance of land, and stating that the same are taken pursuant to the provisions of said act and stating the purpose or purposes for which the same are taken thereunder, and also to
18 file in said office a plat of such land or lands, but not neces-sarily including in such plat any lands damaged simply by the taking of any water or water rights.

28. But that said act in no way provides for any appeal from the action of the city council in taking, or any appeal from the resolution of the city council to take, any land or lands or any estates, easements, rights or interests in any land or lands, or any waters or water rights or privileges for any such purpose or purposes under said act, or any determination of the public necessity of such taking, except by ex parte vote of said city council and without the opportunity for said question to be passed on in any way by any disinterested tribunal.

29. That said act further provides in said Section 23 thereof that upon the filing of such statement and plat, or statement as the case may be, the title to such land or lands, or estates, easements, rights or interests in land or lands, or waters or water rights or privileges, shall vest in said City of Providence in fee simple, unless a less estate or interest therein is specified in such statement as taken by said city, in which case such land or lands, or estates, easements, rights or interests in land or lands, or waters or water rights or privileges, shall vest in said city to the extent and according to the nature of the title therein taken; that after the filing of such statement and plat or statement, said city may take possession of and enjoy the use of any such land or lands or any estates, easements, rights or interests in any land or lands, or any waters or water rights or privileges taken as aforesaid; provided, however, it shall not take actual possession of any such land or lands, or estates, easements,
19 rights or interests in land or lands, or any buildings or improvements thereon, or any such waters or water rights or privileges, without the consent of the owner or owners thereof, respectively, until after the expiration of one year from the date of the filing of such statement and plat or statement, but that this proviso should not affect the provision of Section 20 of said act or prevent said city from taking actual possession at the expiration of three

months from such date, of any strips of land taken or to be used for roadways, or of any lands taken for said aqueduct or ways thereto or for said relocation of any part of the Providence & Danielson Railway Company.

30. But that said act makes no provision for the payment for any such lands or waters or rights therein before the city takes actual possession thereof, unless there has been an agreement as to the amount of such compensation by the city and the owner prior to such taking possession, or proceedings have been commenced by the owner to determine the amount of damages for such taking and such proceedings have terminated prior to such taking; otherwise that said city may have the entire possession and use of the lands, waters, rights and property taken and the owner thereof be entirely deprived not only of the title but of the actual use and possession of the property taken without receiving any compensation whatever therefor until some period long subsequent thereto.

31. That said act further provides in said Section 23 thereof that after the filing of such statement and plat or statement, notice of the taking of such land or lands, and such estates, easements, rights and interests in land or lands and such waters and water
20 rights and privileges shall be served upon the owners of, and persons having such estates, easements, rights and interests in, and persons interested in, such land or lands and such water rights and privileges by the city sergeant of said City of Providence leaving a true and attested copy of such statement with each of such owners and persons personally or at his last and usual place of abode in this state with some person living there, and in case any such person or persons are absent from this state and have no last and usual place of abode therein occupied by any person, such copy shall be left with the persons, if any, in charge of or having possession of such land or lands taken of such absent persons, and another copy shall be mailed to the address of such absent persons if the same is known to said officer; and after such filing of such statement and plat, or statement, the city clerk of said city shall cause a copy of such statement to be published in some newspaper or newspapers published in said city at least twice a week for four successive weeks; and that on the request of any such owner or person within one year after such taking, said city shall, within thirty days after such request, furnish him with a plan or description in writing of his land or lands or water rights so taken.

32. Said act further provides in said Section 23 thereof that if any such owners or persons shall agree with said city upon the price of his land or lands or his estate, easement, right or interest in such land or lands or his waters or water rights or privileges so taken, the same shall be paid to him forthwith by said City of Providence, and that any owner of, or person entitled to or interested in, any such land or lands or any such estate, easement, right or
21 interest in any such land or lands or any such waters or water rights or privileges so taken, who shall not agree with said city of Providence on the price of his land or lands, or his estate,

easement, right or interest in such land or lands, or his waters or water rights or privileges so taken, may, within one year after personal notice of said taking, or if he have no personal notice may within two years from the date of such filing of such statement and plat or statement apply by petition, to the Superior Court within and for the County of Providence or the county in which the land or any part thereof taken or damaged as aforesaid by such taking is situated, setting forth the taking of his land or lands or his estate, easement, right or interest in such land or lands or his waters or water rights or privileges, and praying for an assessment of damages by a jury, and that upon the filing of said petition, said Court shall cause twenty days' notice of the pendency thereof to be given to said City by serving the Mayor of said city with a certified copy thereof, and may proceed after such notice to the trial thereof, and such trial shall determine the damages by him sustained by such taking of his land or lands or his estate, easement, right or interest in such land or lands or his waters or water rights or privileges, and including any lands, works and machinery surrendered by him to said city under the authority of said act, and judgment shall be entered upon the verdict of such jury and execution shall be issued against said city therefor, and such trial shall be conducted in every respect as other civil cases are tried, including the right to except to rulings and apply for new trial for cause, and that in case of conflicting claims to any such interest in any such land or lands, or to any waters or water rights or privileges, so taken, by any two or more such petitioners, said Court may set down the petitions of such petitioners for trial at the same time by the same jury, and may frame all necessary issues for the trial thereof.

33. But that said act makes no provision for the postponement of the claim for such determination of such damages by a jury as aforesaid until the right or authority of the city to take such property and the regularity and propriety of the action of said city in such taking has been determined by any judicial tribunal, but that the claim for a determination of such damages if not theretofore agreed upon must be made within one year from the time of taking, notwithstanding the owner of the property disputes the constitutionality of the act and the right of the city to take thereunder and the regularity of the City proceeding under such taking.

34. That in and by said Section 23 of said act it is further provided that in case any owner of, or person having any estate, easement, right or interest in, or interested in, any such land or lands, or such waters or water rights or privileges so taken, shall fail to receive personal notice of the taking thereof, and shall fail to file his petition as provided in said act, said court in its discretion may permit the filing of such petition subsequent to said period of two years from such filing of such statement and plat or statement; provided, that such owner or person shall have had no actual knowledge of such taking in season to file such petition and provided that said City of Providence, after such filing of such statement and plat or statement, shall not have paid any other person or persons claiming

to own such land or lands or such estate, easement, rights or
23 interest in land or lands, or such waters or water rights or privileges the price or value of the same, and shall not be liable to pay for the same under any judgement rendered against said city under the provisions of said act.

35. That said act in and by said Section 23 thereof further provides that instead of claiming any assessment of damages by jury as above referred to, any such owner or person may within the time thereinbefore prescribed for claiming such assessment apply to the Superior Court for the County of Providence for the assessment by a commisison of such damages as such owner or person sustained by such taking; and said Court may from time to time appoint a disinterested commission or commissions, as it shall deem necessary, to hear and determine such applications; that a person who is a resident or taxpayer in the City of Providence shall not thereby be disqualified from acting as a commissioner in any case in which the person or corporation applying for assessment of damages shall not object to such person; that any commission so appointed shall hear and determine such petitions as are referred to it by said Court, and shall, as soon as it arrives at an award, report each of the same to said Court, which shall fix the time for hearing any objections thereto; that if there are no objections to such award, the Court shall confirm the same; if objections are filed to such award, the Court shall proceed to hear the same, and may confirm said report or refer the same for a new or further hearing to the same or another commission, or may itself fix the amount of the award, as in its judgment shall be -- accordance with the rights and equities of the parties. And that in all cases, any party in interest shall have the same right to an appeal from the decision of the Court as provided
24 by law in equity causes determined by decree of said Superior Court, and upon the final determination of the amount of the damages awarded as aforesaid, execution shall issue in favor of the petitioner and against said city therefor; but that nowhere in said act is there any provision for any examination, either tentative or final, by any disinterested commission or tribunal as to the value of the damages suffered by the owners of property taken before the city takes actual possession and use thereof, but that, so far as is provided in said act, said city may take not only the title but the actual possession and use of property within the area of condemnation after a year from the time of the filing of plat and statement in the town clerk's office of the town within which such property is situated, unless the owner thereof shall agree with said city on the valuation of such property or it shall have been able to obtain final determination within one year by proceedings commenced in accordance with said act; otherwise forcing it to submit to the surrender of its property without any payment therefor and thereby to submit to damages which may, by possibility, exceed the value of the property taken, unless the owner assents to the price of his property as fixed by the city.

36. It is further provided in Section 25 of this act that, until otherwise provided by said city council, said water board shall have

general authority to represent said city and to make any agreements for said city under said act and to — any acts or things necessary for or incidental to executing or accomplishing the purposes of said act and the plans of the city council of said city adopted thereunder, but not to any extent or in any manner inconsistent with any of the express provisions of said act, and that when said board for said city takes actual possession of any land or lands acquired by purchase or condemnation under said act, it may sell, dispose of and cause to be removed any buildings or improvements thereon which would obstruct the work under said act or should be removed to accomplish the purposes thereof; and that in settling any claim for damages for any lands or land taken under said act, said board may agree that any such buildings or improvements may be removed by the owner or owners from whom the same were taken in part satisfaction of such damages, but within such express time as will not impede any such work or materially delay the accomplishment of such purposes; that relative to any such sales, said board in the name and behalf of said city may give to the purchaser a bill of sale of the property sold; that all sums of money received by said board from any such sales shall be forthwith paid into the treasury of said city.

37. But that nowhere in said act is it provided that said property taken actual possession of by said board shall not be sold until the right to take such possession has been rightfully determined or that the proceeds of the property so sold shall be paid to the owner or owners thereof at any time by said city, but that the said city may receive from said board the proceeds of any such sale of property, although the owner or owners of the property so sold have never been paid therefor and cannot recover the value thereof from said city under any of the provisions of said act; moreover, the sale and removal of the buildings and improvements on land taken possession of by said water board is not only not postponed until the right to take the same has been lawfully determined and the value thereof ascertained, but it is not even postponed until it becomes necessary to do so to prevent the obstruction of work under the act or until it should be removed to accomplish the purposes of the act; and the question of whether it will at any time obstruct such work or should be removed is left to the ex parte decision of said water board without appeal therefrom and with no opportunity to have the same passed upon or decided by any impartial tribunal.

38. That said act provides that the right of exercising the powers to take any such land or lands or any estates, easements, rights or interest therein, or any waters or water rights or privileges, as in said act conferred upon said city, shall be exercised by said city within the period of two years from and after the date of the passage of said act and not thereafter, said act having been approved by the Governor on the 21st day of April, A. D. 1915, as hereinabove set forth.

39. That said water board investigated and determined that a part of the north branch of the Pawtuxet River and the water shed tributary thereto would be the most available and desirable source for a supply of pure and wholesome water for the City of Providence and for the territories then supplied or thereafter to be supplied, under the provisions of said act, by means of the waterworks of said city, and proceeded to make a plan locating a storage reservoir on and adjoining said branch of the said river, including tributaries of said branch, and an aqueduct to carry water from said reservoir to the waterworks of said city at Sockanosset, the main dam of said reservoir to be located near and south of the Village of Kent in the Town of Scituate and as approximately shown by plat submitted by said board to the city council of said city and hereinafter re-
27 ferred to, and the location of the flow line of said reservoir being alleged as approximately shown on said plat.

40. That said water board prepared a description purporting to be a description of certain lands and estates, easements, rights and interests in lands and waters, water rights and privileges proposed to be taken, and also a plat hereinafter specified purporting to show said lands and a list purporting to be a list of the owners thereof and persons interested therein so far as known to said water supply board and submitted said description, plat and list to said city council of said city for its action on said proposal, said accompanying plat consisting of a title sheet and twenty-one additional sheets numbered progressively "A-1" to "A-21," both inclusive, and said title sheet being marked as follows: "City of Providence Water Supply Board, Plat of lands in the Towns of Scituate, Foster and Johnston Condemned by the City of Providence for Water Supply Purposes under Chapter 1278 of the Public Laws of 1915. Prepared by the Water Supply Board September 30, 1916. B. Thomas Potter, William A. Schofield, Henry A. Grimwood, William P. Vaughn, John Kelso, Joseph H. Gainer, Walter F. Slade, Water Supply Board of the City of Providence. Frank E. Winsor, Chief Engineer." "This Plat consists of this title sheet and twenty-one sheets numbered A-1 to A-21 inclusive. An index sheet is attached hereto for convenient reference only."

41. And that the city council of said city, in exercise or attempted exercise of the powers and authority conferred or purported to be conferred by said act, passed its certain resolution No. 397, ap-
28 proved December 4, 1916, and entitled, "Resolution of the City Council, Taking Certain Lands and Waters for Water Supply Purposes," wherein and whereby said city elected to take and alleged that it took certain lands and estates, easements, rights and interests in lands and waters, water rights and privileges therein described and wherein were specified as therein alleged, the nature or extent of the title therein or thereto taken and the purpose or purposes for which the same were taken, and it provided that there be filed in the office of the town or city clerk in each of the following towns and city, namely, the Town of Scituate, the Town of Foster, the Town of Johnston, the Town of Coventry, the Town of West War-

wick, the Town of Warwick, and the City of Cranston, a statement containing a description of the lands and estates, easements, rights and interests in lands and waters, water rights and privileges taken, and specifying the nature or extent of the title therein taken and stating that the same are taken pursuant to the provisions of said act and stating the purpose or purposes for which the same are taken thereunder (such statement being a recital of all of the purposes for which lands, waters or water rights might be taken under the provisions of said act, but not designating any special purpose or purposes as the occasion of the taking of any specific parcel or parcels thereof), and also a plat of said lands, the same being a duplicate of the plat accompanying said resolution with the addition of the number and date of the passage of said resolution and the signature of the Mayor thereon.

42. That in alleged pursuance of said resolution and in alleged conformity therewith, said City of Providence made a statement signed by its Mayor alleging that it had elected to take and took, and that the same are taken in pursuance of the provisions of said act for the purposes thereinafter specified, all the lands and estates, rights and interests in lands and waters, water rights and privileges thereinafter described and the title therein and the nature or to the extent thereinafter specified, copy of which statement, marked "Exhibit A," is hereto annexed and hereby made a part thereof, and caused to be filed for record in the offices of the respective town clerks of the Towns of Scituate, Foster, Johnston, Coventry, West Warwick, and Warwick, and in the office of the city clerk of the City of Cranston, all on the sixth day of December, 1916, said statement signed by its Mayor, together with a plat signed by him, consisting of a title sheet and twenty-one additional sheets numbered progressively A-1 to A-21 both inclusive and said title sheet being marked as follows: "City of Providence Water Supply Board. Plat of Lands in the Towns of Scituate, Foster and Johnston Condemned by the City of Providence for Water Supply Purposes Under Chapter 1278 of the Public Laws of 1915. Prepared by the Water Supply Board, September 30, 1916. B. Thomas Potter, William A. Schofield, Henry A. Grimwood, William P. Vaughn, John Kelso, Joseph H. Gainer, Walter F. Slade, Water Supply Board of the City of Providence. Frank E. Winsor, Chief Engineer.

"This plat consists of this title sheet and twenty-one sheets numbered A-1 to A-21 inclusive. An index sheet is attached hereto for convenient reference only.

"Plat consisting of a title sheet and twenty-one additional sheets, (numbered progressively A-1 to A-21 inclusive, and all dated September 30, 1916), of Lands in the Towns of Scituate, Foster and Johnston, Condemned by the City of Providence for Water Supply Purposes &c., under the provisions of Chapter 1278 of the Public Laws, entitled 'An Act to Furnish the City of Providence with a Supply of Pure Water,' passed by the General Assembly of the State of Rhode Island at its January Session, A. D. 1915, and

by and in accordance with the resolution of the City Council of said City of Providence numbered 397, approved December fourth, 1916, and entitled 'Resolution of the City Council Taking Certain Lands and Waters for Water Supply Purposes.'

Joseph H. Gainer, Mayor of the City of Providence."

43. That both said statement and said resolution state that the city takes all the lands and parcels of land which are therein set forth as included within a certain boundary line, therein set forth in detail, and shown in character on said plat, designated as "the boundary line of the Main Taking" in fee simple, with certain exceptions none of which is relevant hereto, except that said statement and said resolution state:

"Said City of Providence, in taking said lands and parcels of land hereinbefore set forth as included in the taking and described in the paragraph numbered 'First' herein, does not take any waters now or hereafter in, on or within the same, or any rights in or to any such waters, or any right to hold, appropriate or divert any such waters, for said water supply to any greater degree or extent than hereinafter provided in the express taking of waters, and the taking of said lands and parcels of land, in respect to any waters now or hereafter in, on or within the same, is hereby
31 made subject to any and all the conditions, limitations, restrictions, reservations, obligations and requirements of said act pertaining to the taking of the waters of said branch of the Pawtuxet River and its tributaries."

44. That both said statement and said resolution allege with regard to the lands, estates, rights and interests in lands, which are within the said area enclosed by said "boundary line of the Main Taking", as follows:

"And said City of Providence takes all said lands, and estates, easements, rights and interests in lands, which are within said area and are hereinbefore described as taken, for the following specified purposes: for the location, construction, maintenance and operation of said storage reservoir, (the main dam of said reservoir being located within said area near and south of the Village of Kent in the Town of Scituate and as approximately shown on said plat and the location of the flow line of said reservoir being within said area and as approximately shown in character on said plat), and any dams, sluices, culverts, water and land ways, and works connected therewith or incidental thereto, and for filtration and other works for treating said water supply, and for the location, construction, maintenance and operation of an aqueduct section from said storage reservoir to the easterly line of said area, and any of the same, not required or used for said reservoir and works, for protecting and preserving the waters in said river branch and its tributaries flowing thereto from pollution and from the deposit therein of any matters which would reduce the quality or value of any such waters as a potable water supply, and for the water supply purposes specified in said act, and for locating

therein and thereon the new public highways or the parts thereof within said area shown on said plat and required by said act
32 to be laid out and constructed by said City of Providence, and relative to the new public highway from the Danielson Pike to Rockland required by said act to be laid out and constructed by said city, for furnishing in the part of the same within said area the Providence and Danielson Railway Company, its successors and assigns, with the new location and street railway easement therein for a single track railroad with convenient turnouts specified in said act, and for furnishing said Company, its successors and assigns, with the new location and railroad easement specified in said Act in and across said Ponaganset-Rockland road and over land adjoining thereto and westerly thereof to the junction with the present track and location of said railroad as shown on said plat, and for said city's permitting said Providence and Danielson Railway Company, its successors and assigns to construct and maintain a high tension electric transmission line over or under any lands and waters within said area taken by said city as provided in said act, and for said city's permitting any telegraph, telephone, electric light or electric power transmission company at any time existing under the laws of the State of Rhode Island or of the United States to construct and maintain its lines in, over or under any lands and waters within said area taken by said city as provided in said act, and for carrying out the purposes, directions and requirements of said act."

45. That both said statement and said resolution also show the taking of certain strips or parcels of land for highway purposes and for furnishing the new location of the Providence and Danielson Railway Company and for the purposes of a general burying ground for reburying therein remains removed from portions of the Main Taking, none of which is material in this case.

33 46. And said statement and resolution also set forth that the city takes under said act:

"All the waters of said north branch of said Pawtuxet River and its tributaries, included within any and all said lands and parcels of land hereinbefore taken and situated within said area of land hereinbefore described in paragraph numbered 'First' herein, and any and all water and flowage rights and privileges appurtenant to or connected with said lands and parcels of land, and any and all waters flowing into said storage reservoir, with the right to hold all said waters and to appropriate and divert the same for said water supply and the water supply purposes specified in said act, except as hereinafter set forth and provided, and subject to all the conditions, limitations, restrictions, reservations, obligations and requirements relative thereto or any thereof specified in said act, and especially in Section 6 thereof, and especially subject to the following provisos: Provided, however, that said City of Providence shall not hold or divert any such waters until said storage reservoir is ready for use;" with a further proviso as to the amount of water which shall there-

after be allowed to pass said dam in accordance with the provisions of said act.

47. And both said statement and said resolution state as follows:

"And said City of Providence takes all said waters and water and flowage rights and privileges to the extent hereinbefore described as taken, absolutely, and for said water supply for the City of Providence, and for the territories supplied on the date of the passage of said act in the City of Cranston and Towns of North Providence, Johnston, and Warwick, and for any territories which th-reafter may be supplied and to the extent that they may be supplied under the provisions of Section 18 of said act which reads as follows:"

reciting said Section 18; and continues:

"And in taking said waters and water and flowage rights and privileges as aforesaid said City of Providence includes any and all riparian rights thereto or therein which are appurtenant, attached or incident to any and all the riparian lands, situated on said north branch of said Pawtuxet River, below said dam of said storage reservoir located near and south of said Kent, in the Towns of Scituate, Coventry and West Warwick and the City of Cranston, and situated on said Pawtuxet River, below the junction of said north branch and the south branch of said river, in the Towns of West Warwick and Warwick and the City of Cranston, to the extent that said rights are taken by said taking to the extent hereinbefore described and limited."

48. And both said statement and said resolution allege:

"And any and all the aforesaid takings herein or hereunder of any and all lands, or interest therein, included in any and all public highways or roads, or parts thereof, in which the public highway easement is not permitted to be taken under said act, are hereby expressly made subject to such public highway easement."

49. And both said statement and said resolution allege:

"And although the measurements given herein and the measurements and areas given or shown on said plat are believed to be approximately correct, yet all the lands described or delineated as included in any and all the takings herein or hereunder are hereby taken as aforesaid, whether said measurements or areas are greater or less than given or shown herein or on said plat."

50. That on the 29th day of January, A. D. 1917, said city gave your orator notice of the taking of such lands, estates, easements and interests in land or lands and said waters or water rights and privileges, by the City Sergeant of said City leaving a true and attested copy of such statement with the Treasurer of said Scituate Light and Power Company in his hands and possession.

51. That on the 31st day of January, A. D. 1917, your orator in writing requested said city to furnish it with a plan or description in writing of its land or lands or water rights so taken, and on the 7th day of March, A. D. 1917, said city, in reply to such request, delivered to your orator, through its attorney, a statement, copy whereof, marked "Exhibit B," is hereto attached and hereby made part hereof.

This statement, as will appear by an examination thereof, disclaims being a complete or perfect description of the properties taken, and states that in case of any defect in description, or oversight or omission therefrom of any of your orator's lands or water rights it is made without waiving, or surrendering, or affecting the taking of, any of the same which have been taken by said city thereunder.

52. That said City of Providence has acquired by purchase
36 divers tracts of land within the condemnation area.

53. That said city has commenced work upon the construction of a dam near the Village of Kent in accordance with its announced plan aforesaid, which, under the provisions of said act, it is constructing by contract; but that on account of the magnitude of the work and of difficulties growing out of the war conditions, said city is not likely, as your orator is informed and believes and therefore alleges, to complete said dam under four or five years, and its probable time of construction will be more than five years; and that said city will in all probability not be able to take water for water supply purposes from the reservoirs made by said dam under about ten years from the present date.

54. That for the purposes mentioned in said act, the said city has no need for taking possession of your orator's properties until said dam is nearly or quite completed, and the damage to your orator from the city's taking possession of your orator's property, either at the present time or at any time in the immediate future, would be manifold any benefit whatsoever the city could obtain from the same by leasing or using the same or otherwise.

55. That your orator is advised, and on information and belief avers, that said act is uncontstitutional and void, in that it violates the provisions of Articles V and XIV of Amendments to the Constitution of the United States in that under its provisions your orator and the other owners are deprived of their property without due process of law, without remedy by recourse to the laws, conformably to the laws, or by the law of the land, in that their
37 property is allowed to be taken for a public use without just compensation, and also in that their property is allowed to be taken under color of eminent domain by the city of Providence acting under said act, when questions of the necessity of the taking as a whole or of the taking of the various parcels which are taken have not been decided by the legislature itself but have been relegated to the City of Providence to decide ex parte, without appeal and without an opportunity to have said questions heard and decided by an impartial tribunal.

56. And your orator says in connection herewith that, as a matter of fact, the taking of your orator's property is not necessary to the purposes of said act, but that said city could obtain from said north branch of the Pawtuxet River an abundant supply of pure water for its purposes, far more readily and at a very small portion of the cost of the present plan, without disturbing any portion of your orator's property, without disturbing the mills, mill villages and business portions of the town taken under the present plan of condemnation, and that the taking of the property and power plants owned or operated by your orator is uncalled for and unnecessary, and that it has not had and does not have under said act any opportunity to raise this question or have it passed on by any impartial tribunal.

57. And your orator further says that it is advised, and therefore on information and belief alleges, that said act is unconstitutional and void, in that — violates all the foregoing provisions of the Constitution of the United States in the particulars mentioned, in that it permits said City of Providence to take the possession and use of your orator'- property, and to rent, sell and dispose of
38 same, not only without offering any compensation therefor or having any compensation therefor permanently or tentatively determined, (the whole question of proceedings to have such damages determined being left as a burden upon your orator, in default of whose action said city may take said properties on its own terms or, so far as appears by said act, without any compensation therefor) but, also said city is allowed to take possession of all of said properties and to dispose of the same, not only without paying for the same or having any value thereof determined, but also, at a time when the same is not required for the purposes of said act and may never be required therefor, the need of said premises by said city being dependent upon the complete or permanent construction of the dam at Kent, the completion of which as aforesaid will in all probability be long deferred and by possibility may never occur. And your orator avers that the question of the taking of said property for a prospective or possible need of the city is left by said act wholly to said water board, representing said City of Providence to decide ex parte without any opporunity for an appeal or for the hearing and determination of the question by any impartial tribunal.

58. And your orator says that it is advised, and therefore on information and belief avers, that said act is unconstitutional and void, in that it violates the provisions aforesaid of the Constitution of the United States in the particulars aforesaid, in that it permits taxpayers of said City of Providence to be burdened by a large and unnecessary expenditure and by an expenditure which is not wholly for the benefit of said City of Providence but in part
39 for the benefit of other municipalities or companies outside of the City of Providence which do not contribute to any portion of the expenditure for said water supply.

59. Your orator avers it is interested in the aforegoing questions as one whose property is taken under said act, and that it does not have any appeal from the ex parte decision of the representatives of said City of Providence in determining upon the making of said expenditure and upon the taking of land and property by the City of Providence and at its sole expense under the color of eminent domain, but for the benefit of other communities than the City of Providence, and that there has been and is now no opportunity for said questions to be considered and determined by any impartial tribunal.

60. Your orator further says that it is advised, and therefore on information and belief avers, that said act is unconstitutional and void, in that it violates said Articles V and XIV of Amendments to the Constitution of the United States by denying to persons within the jurisdiction of said State of Rhode Island the equal protection of the laws, in that it permits the owner or owners of business located on land situated in said Town of Scituate or on said branch of the Pawtuxet River and established prior to the passage of said act, which is directly or indirectly damaged or decreased in value by reason of the acquisition or taking by said city under said act of any land or lands or the acquisition, taking or diverting of any waters of said branch of the Pawtuxet River or any waters tributary thereto under the provisions of said act, to claim and recover just
40 compensation for such damage or decrease in value, but does not allow the owner or owners of any such business so situated, but which was not established at the time of the passage of said act but was established before the said city took any action under said act to acquire or take any land or waters thereunder, to recover any such compensation for such damages or decrease in value; and also, in that, while it allows any mill owner whose mill is situated on land taken by the City of Providence under said act, to recover the reasonable expense and cost of moving his machinery from the old location at said mill to a new location within the New England states, it does not allow a mill owner similarly situated, whose land and mill are taken, to recover any portion of the reasonable expense of moving said machinery to any location without said New England states, irrespective of the needs of his business or the desirability or necessity of such new location or the cost of such moving. And your orator says there are numerous cases of business established in good faith within said area after the passage of said act but before the condemnation of land by the City of Providence, and that there is at least one case where it becomes reasonably necessary and proper that the machinery should be removed from the mill where it was located to a new location in the State of New York.

61. And your orator says that it does not desire to dispose of its said estates, as shown on "Schedule C," hereto annexed, or any part thereof, and the loss of the power plants, mills, mill privileges, with the water powers and improvements connected therewith, in-
41 cluding those leased from the Joslin Manufacturing Company, as well as those owned by your orator, will be a great hardship to it, and the damages will be irreparable if it is required

to abandon its said business and the plans connected therewith within the Town of Scituate purported to be taken by said city under said act; and that if the same shall be taken in the immediate future, not only will the business of your orator be brought to an end and the same be ruined, but a large part of the manufacturing industry of the Town of Scituate served by your orator, meaning the business of the Joslin Manufacturing Company, conducted therein, and the operation of the mills and manufacturing plants owned or operated by said Joslin Manufacturing Company, and the employment of many residents of said town engaged in enterprise in these times particularly vital and necessary for the welfare of the whole country, and the filling of contracts for common necessaries all over the world, to wit, the manufacture of lacings of many sorts, by reason of being deprived of the electric energy necessary for the conduct of such business and employment, will be stopped, such business will be brought to ruin, and such employment will cease, and further, a large number of the residents of said Town will be deprived of the supply of electric energy now furnished and available for domestic and other uses. Your orator recites the loss, damage and deprivation to be suffered by others than your orator by the enforced closing down of your orator's business because your orator is chartered to perform public service, which public service it has for some years last past been planning and attempting to establish, enlarge and perfect.

42 And your orator desires this Honorable Court, as soon as the pleadings are at issue, to certify the aforegoing Constitutional questions to the Supreme Court of the State of Rhode Island for its decision and that a decree may be entered in accordance with such decision; and that, in case of decision against the constitutionality of the act and pending a consideration and decision of such questions by the Supreme Court of the State of Rhode Island, or by the Supreme Court of the United States on appeal or certification from the courts of this state, said City of Providence be enjoined from taking possession of or in any way interfering with your orator's possession and management of its power plants and property aforesaid.

62. And your orator says, in view of the present conditions and its great need for the present use of its property aforesaid and the fact that said City does not require the possession or use thereof until said dam is entirely or substantially completed, and the fact that such completion is likely to be deferred for some years, it is grossly inequitable to permit said City of Providence to take possession of your orator's property aforesaid, not only during the pendency of the proceedings to determine such questions of constitutionality and validity of the city's taking of your orator's property, but also while said property is not required for the purposes of said act by said City of Providence, and that this Honorable Court by restraining order should prohibit said city from taking possession of your orator's property and from interfering with its management until further order from this Honorable Court.

63. That said city, through the members of its water board and its engineers and other agents and servants, has expressed an
43 intention of taking possession of the properties of your orator purported to have been taken under the provisions of said act, immediately or soon after the 6th day of December, 1917, and while said board has also expressed an intent not to take possession of said property for several years, such expressed intent is not binding on said city, and said board can if it wishes, under the provisions of said act, take possession at any time unless restrained and enjoined as herein prayed and that if such possession is taken your orator will be wholly without relief in the premises and will be subjected to irreparable loss as hereinabove set forth; and that your orator has no sufficient remedy in the premises except in a court of equity.

64. To the end, therefore, that said City of Providence, through its City Treasurer and said B. Thomas Potter, William P. Vaughn, William A. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood and Walter F. Slade, as members of said Water Board, may full, true and perfect answer make hereto, and to each part and allegation hereof, as though the same were herein repeated and the respondents separately interrogated in relation thereto (but not under oath, all benefit whereof is hereby waived), and that said city, and its said Water Board, its and their agents and servants, both permanently and temporarily be enjoined and restrained from taking possession of or interfering with your orator's possession of any portion of your orator's property hereinabove referred to, and that a restraining order, so restraining said city, said Water Board, its and their agents and servants, from taking possession or interfering with your orator's possession of said property until further order of the court, may be entered herein, and that your orator may have
44 such other and further relief herein as the exigencies of its case may require and as to your Honors shall seem meet;

May it please your Honors, to grant unto your orator, not only the most gracious writs of permanent and temporary injunction restraining said city, said Water Board, its and their agents and servants, as aforesaid, with a restraining order as aforesaid, but also the most gracious writ of subpœna, out of and under the seal of this Honorable Court, commanding said City, through its City Treasurer and the aforesaid members of said Water Board, to be and appear in this Honorable Court, at a time and under a penalty to be therein fixed, and there and then, not only to make answer as aforesaid but to stand to, perform and abide such further orders herein as to your Honors shall seem meet and as is agreeable to equity and good conscience;

And so your orator will ever pray.

SCITUATE LIGHT & POWER COMPANY,
By WILLIAM H. JOSLIN,
Pres. & Treas.

FRANCIS I. McCANNA,
JAMES HARRIS,
ALFRED G. CHAFFEE,
Solicitors for Complainant.

45 I, William H. Joslin, of Scituate, in the County of Providence and State of Rhode Island, on oath depose and say that I am the President and Treasurer of the Scituate Light and Power Company, the above named complainant, and as such authorized to act and make oath in its behalf; that I have read over the aforegoing bill of complaint and am acquainted with the contents thereof, and that the allegations of said bill of complaint are true of my own knowledge, except in so far as the same are therein made upon information and belief, and the allegations so made on information and belief are true to the best of my knowledge, information and belief.

WILLIAM H. JOSLIN.

Subscribed and sworn to, at Providence in the County of Providence and State of Rhode Island, on this 31st day of March, A. D 1921.

Before me,

FRANCIS I. McCANNA,
Notary Public.

46 (EXHIBIT B.)

Providence, R. I., March 7, 1917.

To the Scituate Light and Power Company:

Pursuant to your request to the City of Providence, dated January 31st, 1917, to furnish you with a plan or description in writing of your lands and water rights taken by said City pursuant to the provisions of Chapter 1278 of the Public Laws of the State of Rhode Island, approved April 21, 1915, and entitled "An Act to Furnish the City of Providence with a Supply of Pure Water," said City hereby furnishes you with the following description of the same to the extent that the same appear of record in the land records in the town clerk's office, and appear to be owned by you, or in which you appear to have some interest, so far as known by said City and its representatives, but without any admission on the part of said City that you were at the time of taking lawfully so entitled, and without relieving you of the necessity of making due claim for and duly proving your title and right to or in any lands or water rights claimed to have been owned by you at the time of any taking of any lands or water rights by said City under said Chapter 1278 of the Public Laws, and made pursuant to resolution of the City Council of said City numbered 397, approved December 4, 1916, and entitled "Resolution of the City Council Taking Certain Lands and Waters for Water Supply Purposes," and in case of any defect in description, or oversight or omission herefrom, of any of your lands or water rights without waiving, or surrendering, or affecting the taking of, any of the same which have been taken by said City thereunder, viz:

47 First.

A certain parcel of land with any and all the improvements thereon, situated in the Town of Scituate in the State of Rhode Island on the northerly side of the Saundersville Pike and known as the Caleb West Factory Estate, and containing 7.60 acres, more or less, and being the same parcel of land designated and delineated as parcel number 198 on Sheet A-4 of that certain plat, entitled:

"City of Providence Water Supply Board. Plat of Lands in the Towns of Scituate, Foster and Johnston Condemned by the City of Providence for Water Supply Purposes Under Chapter 1278 of the Public Laws of 1915. Prepared by the Water Supply Board, September 30, 1916. B. Thomas Potter, William A. Schofield, Henry A. Grimwood, William P. Vaughn, John Kelso, Joseph H. Gainer, Walter F. Slade, Water Supply Board of the City of Providence. Frank E. Winsor, Chief Engineer.

"This Plat consists of this title sheet and 21 sheets numbered A-1 to A-21 inclusive. An index sheet is attached hereto for convenient reference only. * * *

"Plat consisting of a title sheet and 21 additional sheets (numbered progressively A-1 to A-21 inclusive and all dated September 30, 1916), of lands in the Towns of Scituate, Foster and Johnston, Condemned by the City of Providence for Water Supply Purposes, &c., under the provisions of Chapter 1278 of the Public Laws, entitled 'An Act to Furnish the City of Providence with a Supply of Pure Water,' passed by the General Assembly of the State of Rhode Island at its January Session, A. D. 1915, and by and in accordance with the resolution of the City Council of said City of Providence numbered 397, approved December fourth, 1916, and entitled 'Resolution of the City Council Taking Certain Lands and Waters for Water Supply Purposes.' * * *

48 Joseph H. Gainer, Mayor of the City of Providence."

which plat was filed for record in the Town Clerk's office in said Scituate on December 6, 1916.

This parcel of land apparently was held by your predecessors in title and is now held by you under color of a deed from George P. Howard, Tax Collector to Henry H. Potter, dated January 20, 1905 and recorded September 2, 1905 in said Town Clerk's office in book 38, page 550. By deed dated April 12, 1915 and there recorded in book 45, page 207, Robert B. Taft the owner in fee at the time of said tax sale of said parcel conveyed his interest therein to Felix Levy who has since reconveyed the same to Robert B. Taft who has mortgaged the same to Leonard E. Taft. It also appears of record that at the time of said tax sale Allen M. Barber held a mortgage thereon. By letter dated May 3, 1916 said city was notified that Felix Levy claims to own this parcel.

Certain water rights or privileges were appurtenant to or connected with this parcel of land. These privileges were created by deed from Coomer Waterman to Caleb Westcott et al. dated May 5, 1834, and

there recorded in deed book 14, page 382 and this deed in conveying this parcel granted:

"A certain water privilege—in Scituate—with the right of flowage and erecting a dam or dams of such height to raise the water to take all the water fall that shall not flow back to infringe upon Stephen Greene's factory wheel or privilege, and also all the right, title, interest, claim or demand which I, said Coomer Waterman, have in and to the river and of the water that runs therein which I now have or by reason or means ought to have in and to said river that the same may run in its natural course without any molestation whatever and is bounded and described as follows."

(Here follows a description of said parcel 198.)

"* * * It is further agreed by and between said parties that the said Brayton and Westcott is to have the privilege of digging a ditch from the wheel pit or apron way where they contemplate putting in a wheel and erecting a shop &c., of such depth and width through the land of the grantor across said turnpike road and in the most convenient manner where it will be attended * * * the least expense and to the least injury until it comes to the main river sufficiently deep to take all the fall from the head to said river providing said Westcott and Brayton build two bridges across said ditch one for cattle and one for teams for the purpose of getting out his hay and keep the same in repair and turn the course of said river or all the water that runs in said river across said road aforesaid and the said Coomer Waterman is to have the privilege of taking a sufficient quantity of water across said Turnpike to water his cattle at such seasons and times as said Waterman may need the same object however to the control of said Brayton and Westcott to stop the same at all times when it is not wanted for the purposes aforesaid."

"And in case the said Brayton and Westcott should for themselves their heirs or assigns hereafter erect a dam below for the purpose of making a larger pond for the benefit of their privilege to raise the water to flow on to the said grantor's land, the said Brayton and Westcott their heirs and assigns shall pay or cause to be paid to said Waterman, his heirs or assigns $50 an acre for all such land so flowed by reason of said pond and should the water when raised rise so high as to flow on to the barn lot of said Waterman said Brayton and Westcott is to have the privilege of raising a ridge for the purpose of stopping the water from flowing on to said lot and not to flow away on to said barn lot and should said last mentioned dam be erected for the purpose aforesaid said Coomer Waterman for himself, his heirs and assigns agrees to and with the said Brayton and Westcott, their heirs and assigns that they may at pleasure join said dam on my land."

Further this parcel had certain rights and was charged with certain burdens in connection with the Waterman & Saunders Reservoir so called, located in the Pine Swamp, which Swamp is situated mostly

in said Scituate and a small part thereof in the Town of Johnston but without the area of lands the fee of which was taken. These rights were acquired under that certain indenture between Coomer Waterman (then owner of this parcel and also the owner of the Stephen Greene Factory Estate lying easterly of this parcel) and Isaac Saunders (then the owner of the Saundersville Factory Estate lying easterly of the Stephen Greene Factory Estate) which indenture, dated March 1, 1850, is recorded in said Scituate records in deed book 20, page 360. Said indenture recites:

"Whereas we have built dams and raised a reservoir pond in the Pine Swamp, so called, for the purpose of holding back the water to be used as needed for our mills now we the said Coomer Waterman and Isaac Saunders do hereby bind ourselves.

"—That as we—have purchased and are to purchase land and rights of flowage, for said reservoir pond and said deeds have
51 been taken by us jointly, this agreement is to set forth how said land is to be owned and paid for by ourselves, our heirs and assigns. And I, Coomer Waterman, in consideration of the benefits to be derived from said reservoir pond agree and bind myself, heirs and assigns together with the Stephen Greene Factory Estate, so called, to pay 3/10 of all expenses that may accrue by reason of building and forever maintaining dams of sufficient height and strength to raise the water in said pond to a certain mark to which we have the right to raise the water by deed from William Miller also for all damages for flowage and that I further bind myself and the Caleb Westcott factory estate, so called, to pay 3/10 of said expense with like conditions as the Stephen Greene Factory estate."

"And I, Isaac Saunders in consideration of the aforegoing covenants made by said Coomer Waterman bind myself and factory estate to pay 4/10 of all the expense of said reservoir on the same conditions that said Waterman pays 6/10 of the whole cost, and whereas the mill owners below our mills have and may subscribe certain sums of money towards the expense of said reservoir, said sums of money are first to be appropriated towards the cost of the reservoir and the balance to be paid by said Waterman and Saunders Factory estates as before specified."

"And in the event that said dam or dams shall by any accident be carried away by water, or need repairing, they shall be rebuilt or repaired by either of the owners of said Factory Estates and all the aforesaid factory estates are firmly held and bound to pay their ratable proportion of the cost as hereinabove specified, the said Isaac Saunders, his heirs and assigns to have the oversight and
52 management of drawing the water from said reservoir pond provided however said Waterman, his heirs and assigns to have the right to draw the water from said reservoir pond at any and all times forever hereafter sufficient to operate the mills under their present arrangements, with the machinery now in his mills. If there is not sufficient water running over said Saunders rolling or waste way said Waterman his heirs and assigns to have the privilege to put a spout into said Saunders lower flume near the mill for the purpose of drawing water to keep his mills in operation when

said Saunders mill may be stopped, for any cause, provided there is water sufficient in said reservoir pond, that can be drawn for said purpose and said Waterman Factory Estate shall pay all damage that may be done said Saunders property in consequence of said spout by reason of the water washing land or otherwise through neglect or improper construction of said spout."

Said deed from William Miller to Coomer Waterman and Isaac Saunders, dated March 25, 1850, and recorded in said Scituate records in deed book 20, page 480, granted to said Waterman and Saunders all the right, title and interest which I now have or of right ought to have in and to the said Waterman and Saunders raising two certain dams at the outlets of the pine swamp and raising the water in said swamps and on said dams so as to cause the water to flow back on to my land 54 inches deep on the sill of the gateway to a small dam erected by me and which is estimated will cover a certain rock, 20 inches under water, that is located 4 or 5 feet on the north side of the brook and about 1 rod east of said dam, and when said rock is covered 20 inches deep under water it is estimated that the water at the south dam will be about six inches under the
53 under side of the sill to the gatehouse at said dam, said Waterman and Saunders, their heirs and assigns are to have the right to flow by water to the above mentioned height on said Miller's land, but all other privileges is retained by said Miller and to his heirs and assigns, except the right to flow the land by water.

Relative to said Pine Swamp said Waterman and Saunders or their succes-ors in title of this parcel acquired rights to there erect dams and raise a pond and take water therefrom under the following deeds to them: from Stephen Olney and Stephen H. Olney, dated December 10, 1849 and there recorded in book 20, page 462; from Jeremy Potter, dated December 14, 1849 and there recorded in book 20, page 462; from Arnold Austin et al., dated December 25, 1849 and there recorded in book 20, page 458; from Gorton B. Randall, dated November 23, 1850 and recorded in the Johnston records, book 14, page 187; and from Benoni Randall dated September 27, 1878 and recorded in said Scituate records in book 31, page 22; agreement of Thomas Smith, dated May 2, 1855 and recorded in the Johnston records, book 15, page 497.

Also said Waterman and Saunders acquired certain lands or lands and water rights in or about said pine swamp by deeds from Ruth Taylor, dated December 31, 1849 and recorded in said Scituate book 20, page 477; from Andrew Winsor, dated January 26, 1850 and there recorded in deed book 20, page 475; from Richard M. Andrew, one dated January 1, 1850 and recorded in said Scituate records in book 21, page 158, and the other dated January 1, 1850 and there recorded in book 21, page 156; from Sarah L. Le Baron,
54 et al., dated April 1, 1852 and recorded in said Johnston records in book 14, page 314; from Henry M. Young, dated August 12, 1869 and recorded in said Johnston records in book 22, Page 449.

Also a predecessor in title of this parcel and the owners of the

parcel next hereinafter described, or part thereof, acquired certain lands in fee and established thereon the Mathewson reservoir, so called, lying southerly of said Saundersville pike but without the area of lands the fee of which was taken, and including an area of about twenty-five acres, but by deed from Coomer Waterman et al. to Tillinghast Winsor, dated May 11, 1863 recorded in said Scituate records in book 23, page 422, said lands were conveyed to the latter subject to the following reservation:

"Reserving however the right to flow said premises as heretofore with the right to maintain, repair or rebuild the dam on the premises and also to use any dirt or other material not including timber on said premises for such purposes with the right to pass and repass to and from the same at any and all times for such purposes as heretofore occupied doing no unnecessary damage thereby."

This reservation does not appear to have been made appurtenant to or connected with this parcel, and said reservoir does not appear to have been in existence at the time of taking, or if so only a small remnant thereof.

Whether any of the aforegoing rights at the time of said taking were in force or appurtenant to or connected with this parcel, or had been theretofore abandoned or lost by change of circumstances or otherwise is uncertain. This parcel was formerly used for a braiding mill until about 1881, and thereafter as a saw or grist mill until about 1902. Since the latter date the old mill was burned down. At the time of the taking of this parcel there was no dam, pond or water or mill fixtures or improvements on the land. But if any of the aforegoing rights, or any rights of flowage or water rights in or pertaining to said reservoir in said Pine Swamp or to said Mathewson reservoir lands were appurtenant to or connected with this parcel of land, the same are included in this description as taken by said city as aforesaid.

Second.

A certain parcel of land, with any and all improvements thereon, situated in said Scituate on the northerly side of the Saundersville Pike, and including part and most of the Stephen Greene Factory Estate, so called, which part comprises the part of this parcel southerly of parcel number 205 on Sheet A-4 of said plat, and also including as the remainder of this parcel the Saundersville Factory Estate, so called, and this parcel containing 48.92 acres more or less, and being the same parcel of land designated and delineated as parcel number 202 on said Sheet A-4 of said plat.

Said Stephen Greene Factory Estate and said Saundersville Factory Estate had certain rights and were charged with certain burdens respectively in connection with said Waterman & Saunders Reservoir in said Pine Swamp. These rights were acquired under said indenture between said Waterman and Saunders dated March 1, 1850 and said deeds pertaining to said Pine Swamp reference being

had to the description of the parcel described herein under
56 "first" for a more particular description of said deeds. Also predecessors in title of this parcel or part thereof and the owner of the parcel hereinbefore described under "first" acquired said Mathewson reservoir lands, and made conveyance thereof reserving said reservation of the right of flowage, &c., hereinbefore described under "first."

Whether said rights at the time of said taking were in force and appurtenant to or connected with this parcel, or had been theretofore abandoned or lost by change of circumstances or otherwise is uncertain. Said Stephen Greene Factory Estate land, part of this parcel, was formerly used as a braiding mill until about 1881 and thereafter as a saw or grist mill until about 1907. Since the latter date the old mill was burned down. Said Saundersville Factory Estate part of this parcel was also formerly used as a braiding mill until about 1903 when it was destroyed by fire.

At the time of the taking of this parcel there were ponds thereon called the Lower Pond and the Upper Pond. A small part of this Upper Pond extended without this parcel and southerly of said Saundersville Pike and on land in parcel number 733 next hereinafter described, and although the record title of the Saundersville Mill Estate bounded on the northerly side of said pike yet as part of said Upper Pond a right of flowage of said part seems to have been appurtenant to this parcel at the time of said taking.

Third.

As hereinbefore stated under "second" there appears to have been at the time of said taking a flowage right, as appurtenant to or connected with said parcel number 202 in the parcel of land
57 situated in said Scituate on the southerly side of the Saundersville Pike, and containing 2.23 acres more or less, and being the same parcel of land designated and delineated as parcel number 733 on said sheet A-4 of said plat.

Fourth.

A certain parcel of land with any and all improvements thereon situated in said Scituate on the northerly side of the Plainfield Pike and containing 14.73 acres more or less, and being the same parcel of land designated and delineated as parcel number 319 on Sheet A-12 of said plat, subject to the right of the Joslin Manufacturing Company to a sluiceway or canal on the easterly side of said parcel, referred to in the following deeds: from Gideon Angell to Charles Angell et al., dated April 13, 1812 and recorded in said Scituate records in book 11, page 87; and from Charles Angell et al., to William Richmond et al., dated August 28, 1813 and there recorded in book 11, page 132.

Fifth.

A certain parcel of land with any and all improvements thereon situated in said Scituate on the easterly side of the Rockland-Richmond road, and containing 3.09 acres more or less, and being the same parcel of land designated and delineated as parcel number 326 on Sheet A-12 of said plat.

Sixth.

A certain parcel of land with any and all improvements thereon situated in said Scituate on the easterly side of the Rockland-Richmond road, and containing 39.32 acres more or less, and being
58 the same parcel of land designated and delineated as parcel number 327 on Sheet A-12 of said plat.

Seventh.

A certain parcel of land with any and all improvements thereon situated in said Scituate on the Westerly side of the Rockland-Richmond Road, and containing 6.41 acres more or less, and being the same parcel of land designated and delineated as parcel number 504 on Sheet A-12 of said plat, subject to the right of the Joslin Manufacturing Company to a sluiceway or canal on the westerly side of said parcel, referred to in the following deeds: from Gideon Angell to Charles Angell et al., dated April 13, 1812 and recorded in said Scituate records in book 11, page 87, and from Charles Angell et al., to William Richmond et al., dated August 28, 1813 and there recorded in book 11, page 132.

Eighth.

A certain parcel of land with any and all improvements thereon situated in said Scituate and lying northerly of the Rockland-Richmond road, and containing 77.06 acres more or less, and being the same parcel of land designated and delineated as parcel number 356 on Sheet A-14 of said plat.

Ninth.

A certain parcel of land with any and all improvements thereon situated in said Scituate and lying northerly of the Rockland-Richmond road and known as the Remington Lower Mill Estate, and containing 3.06 acres more or less, and being the same parcel of land designated and delineated as parcel number 378 on Sheet A-14 of said plat.

59 There appears to have been appurtenant to or connected with this parcel the following rights: a right of flowage granted in the deed from John Battey to Thomas P. Remington, his heirs and assigns, dated April 21, 1831 and recorded in said Scituate records in book 12, page 852, viz:

"The privilege of flowing back the water upstream as far as the southerly line of John Hill's land;" and a right granted therein "of digging a ditch six feet wide from the dam on the north side of the brook through my land in the most convenient place" to mill property, "and a privilege forever of going onto my land to repair said ditch or trench." These rights appear to have applied at the time of the taking to land of Walter A. Battey and wife adjoining this parcel and being lot number 386 on sheet A-14 of said plat.

This parcel is subject to a right of way thereover appurtenant to said land of Walter A. Battey et ux., reserved in said deed from John Battey to Thomas P. Remington, and also subject to a right of way thereover appurtenant to land of Royal Ingraham adjoining this parcel and being lot number 385 on Sheet A-14 of said plat, reserved in the deed from Joshua Rathbun to Joshua Smith et al., dated June 12, 1826 and recorded in said Scituate records in book 12, page 599.

Tenth.

A certain parcel of land with any and all improvements thereon situated in said Scituate, and lying southerly of the Ashland-Ponaganset road and known as the Starkweather Mill estate, and containing 41.97 acres more or less, and being the same parcel of land designated and delineated as parcel 384 on Sheet A-14 of said plat,
60 excepting therefrom the burial ground referred to in the deed from Job Angell to Joshua Colwell, dated September 8, 1858 and recorded in said Scituate records in book 23, page 78, and also referred to in the deed from Stephen H. Olney et al., to Henry F. West, dated September 22, 1866 and there recorded in book 26, page 121.

This parcel is subject under the deed from Jeremiah Randall to Job W. Barden et al., dated April 23, 1861 and there recorded in book 24, page 616, to the reservation in favor of the grantor and his heirs and assigns of "the right to fence a lane not exceeding one rod wide on said premises from my other land to the water where most convenient for a watering place."

Eleventh.

A certain parcel of land with any and all improvements thereon situated in said Scituate on the northerly side of the Ashland-Ponaganset road, and containing 30.27 acres more or less, and being the same parcel of land designated and delineated as parcel number 414-C on Sheet A-14 of said plat.

Twelfth.

A certain parcel of land with any and all improvements thereon situated in said Scituate on the southerly side of the Rockland-Clayville road, and containing .69 of an acre more or less, and being the same parcel of land designated and delineated as parcel number 581 on Sheet A-15 of said plat, with the right to use the one-half part of

the gangway on adjoining land of the Joslin Manufacturing
61 Company lying westerly of this parcel and subject to the right of the Joslin Manufacturing Company to use the one-half part of said gangway on this parcel.

Thirteenth.

Title in all the roadways on which the parcels hereinbefore described abut respectively to the underlying fee in the parts thereof from said parcels to the centers of said roadways.

Fourteenth.

There appears of record a lease agreement between the Joslin Manufacturing Company and the Scituate Light and Power Company in which the former leases to the latter for the term of forty years from September 1, 1916, for certain rents and considerations stated therein, the following properties:

"All its, the said Joslin Company's water power rights, and flowage rights, power plants, penstocks, waterwheels, electric generators, transmission lines, dams, raceways and appurtenances in the Towns of Scituate and Foster in said State of Rhode Island, including Ponaganset, Rockland, Clayville and Richmond Plants, together with as much of the land to which the water power rights and flowage rights are appurtenant as may be necessary to maintain and operate the same. Also all its rights to erect and maintain poles in the highways of said Town of Scituate, also its steam power plants at Richmond, Rockland and Clayville including engines, boilers, electric generators, transmission lines, engine and boiler rooms, chimneys and coal storage, with the rights of access over the lands of the Joslin Company for the purpose of maintaining and operating
62 the same reserving to itself, however, an uninterrupted use of and access to its mills, storage yards and manufacturing property which it has heretofore enjoyed."

This lease agreement dated September 14, 1916, is recorded in said Scituate records in book 45, page 367, and was made after said Joslin Manufacturing Company and its officers or some of them, and said Scituate Light and Power Company and its officers or some of them, knew that said lands and water-power rights and flowage rights or most of them, including said power plants at Richmond, Ponaganset, Rockland and Clayville, were located within the area authorized by said act to be taken by said city and that said city and its authorized representatives had adopted its plan of locating its reservoir on said lands, said plan having been adopted by the Water Supply Board of said city on April 26, 1915, and that at the time of making said lease agreement and said lease, said city was proceeding and intended in a short time to take said properties or most of them. It is claimed that the capital stock of each of said companies at the time of the making of said lease agreement and said lease and at the time of said taking was owned wholly or mostly by the same persons, and that the

change made by said lease did not make any substantial change in the ownership of the properties included respecting the interests of the stockholders of said companies.

In including in this description said lease agreement and said lease there is not waived any right of said city at any time or times to claim that said lease agreement and said lease under the circumstances were not made in good faith but for the purpose of increasing the
63 damages, and were and are constructively fraudulent with reference to the operation of said act and the right conferred upon said city to take said properties and the rights of said city as the taker thereof, and the same were and are invalid and that if held valid between the parties thereto, they should not be permitted to injuriously affect the interests of said city with respect to any determination of the values of any of said properties taken by said city or the damages to be paid by said city for such taking.

Further, with reference to said lease of "Also all its rights to erect and maintain poles in the highways of said Towns of Scituate and Foster," there appears in the records of the Town Council of Scituate in book No. 8 at pages 404 and 405 the following record as to an agreement between said Town of Scituate and the Joslin Manufacturing Company, viz:

Know all men by these presents:

Whereas the Joslin Manufacturing Company, a corporation duly created by and under the laws of the State of Rhode Island, now existing and carrying on manufacturing establishments in the Town of Scituate in said county and State, is desirous of entering into a contract as hereinafter fully set forth, and Whereas the Town of Scituate, for the consideration hereinafter named, is desirous of entering into said contract with said Joslin Manufacturing Company, its successors and assigns.

Now, therefore, it is hereby agreed between said Town of Scituate, hereinafter referred to as the party of the first part, for the consideration hereinafter named, to be paid to it by said Joslin Manu-
64 facturing Company, its successors and assigns, hereinafter referred to as the party of the second part, as follows:

First. Said party of the first part hereby agrees to give and grant and does hereby give and grant unto said party of the second part, its successors and assigns, the right to erect and maintain poles and wires in the highways of the Town of Scituate for the purpose of connecting the present manufacturing establishments of said party of the second part, or any hereafter owned or controlled by said party of the second part, for the purpose of transmitting between said establishments, currents of electricity for light, heat, power, telephonic, telegraphic or other purposes; said poles and wires to be located at said points and places along said highways as shall be selected by the party of the second part, and approved by the Surveyors of Highways of said Town of Scituate, the first part, and for purposes aforesaid said party of the second part may attach and maintain its wires to and upon the poles of the Providence & Daniel-

son Railroad Company and Providence Telephone Company, or either of them within said Town of Scituate, the assent of said companies respectively being first had and obtained.

Second. This contract shall be and remain in force for the period of ninety-nine (99) years from the date of the execution hereof.

Third. The party of the second part, in consideration of the above, hereby agrees to pay unto said party of the first part, the annual sum of ten dollars ($10.00) per year, the first payment to be made upon the date of the execution hereof and to be made thereafter annually from said date.

65 In witness whereof the parties hereto have hereunto set their hands by their respective representatives, for this purpose hereunto duly authorized, at Scituate this 14th day of July, A. D. 1906.

JOHN A. BATTEY, JR.,
President of Town Council of Town of Scituate.
JOSLIN MFG. CO.,
By WILLIAM H. JOSLIN,
Gen. Mgr.

July 14, 1906.

At a Session of the Town Council of the Town of Scituate, R. I., Holden Within and for the Town of Scituate, on Saturday, July 14, A. D. 1906, at 2.15 O'clock p. m.

Members all present.

Resolved that the foregoing contract be and the same is accepted and ordered recorded in the Town Council Records of said Scituate.
Attest:

HENRY H. POTTER,
Council Clerk.

66 & 67 Whether this agreement has been observed and was in force at the time of said taking is unknown to said city and its representatives. It is claimed that the Town Council of said Scituate had no power to make any such agreement, and it is also claimed that said lease of said rights to erect and maintain poles in the highways of said Scituate was also invalid. In mentioning or including this agreement and said lease in this description, said city does so without waiving, or prejudice to, its rights at any time or times to claim that this agreement and said lease were both invalid and inoperative.

CITY OF PROVIDENCE, WATER SUPPLY BOARD.
B. THOMAS POTTER.
WILLIAM P. VAUGHN.
JOSEPH H. GAINER.
HENRY A. GRIMWOOD.
WALTER F. SLADE.

68 Superior Court of the State of Rhode Island, &c., for the Counties of Providence and Bristol. Scituate Light & Power Company vs. Walter L. Clarke, City Treasurer, et al. Equity No. —. Bill of Complaint. Robert H. McCarter, James Harris, Francis I. McCanna, Alfred G. Chaffee, Solicitors for Complainant.

69 EXHIBIT A.

City of Providence.

Statement Containing the Description of Lands, Waters, etc., Taken and Specifying the Title Therein Taken and Stating the Purposes for Which Taken by the City of Providence, Pursuant to Chapter 1278 *of the Public Laws of* 1915 *and by Resolution of the City Council Thereof.*

[SEAL.]

70 Statement of Lands and Estates, Easements, Rights, and Interests in Lands and Waters, Water Rights, and Privileges Condemned by the City of Providence under Chapter 1278 of the Public Laws, Passed at the January Session, A. D. 1915, and by Resolution of the City Council of said City Numbered 397 and Approved December Fourth, 1916.

Whereas, the City Council of the City of Providence, a municipal corporation in the State of Rhode Island, pursuant to Chapter 1278 of the Public Laws, entitled "An Act to Furnish the City of Providence with a Supply of Pure Water," passed by the General Assembly of said State at its January Session, A. D. 1915 and approved by the Governor of said State on April 21, 1915, and in exercise of the powers and authority conferred by said Act, passed its certain resolution numbered 397, approved December fourth, 1916, and entitled "Resolution of the City Council Taking Certain Lands and Waters for Water Supply Purposes," wherein and whereby said City of Providence elected to take and took certain lands, and estates, easements, rights and interests in lands, and waters, water rights and privileges therein described, and wherein were specified the nature or extent of the title therein or thereto taken and the purpose or purposes for which the same were taken, and which provided that there be filed in the office of the town or city clerk of each of the following towns and city, namely, the Town of Scituate, the Town of Foster, the Town of Johnston, the Town of Coventry, the Town of West Warwick, the Town of Warwick and the City of Cranston a statement, containing a description of the lands, and the estates, easements, rights and interests in lands, and the waters, water rights and privileges taken, and specifying the nature or extent of the title therein taken, and stating that the same are taken pursuant to the provisions of said Act, and stating the purpose
71 or purposes for which the same are taken thereunder, and also a plat of said lands the same to be a duplicate of the plat accompanying said resolution with the addition of the number and

date of passage of said resolution and the signature of the Mayor thereon;

Now therefore, pursuant to said Act and said Resolution and in conformity therewith, said City of Providence makes the following Statement that it has elected to take and takes, and the same are taken pursuant to the provisions of said Act, for the purpose or purposes hereinafter specified, all the lands, and estates, easements, rights and interests in lands, and waters, water rights and privileges, hereinafter described, and title therein of the nature or to the extent hereinafter specified, viz.:

First. All the lands and parcels of land, with any and all the improvements thereon, comprising or included within that certain tract or area of land, situated mostly in the Town of Scituate and in part in the Town of Foster and in part in the Town of Johnston in said State, lying or included within, and bounded and enclosed by, that certain line described as follows:

Beginning at a point in the northerly line of the Danielson Pike, so-called, in said Town of Scituate, at its intersection with the easterly line of the Road to Elmdale, so-called; thence northerly, in the easterly line of said Road to Elmdale, eleven hundred seven (1,107) feet more or less to the northwesterly corner of land now or formerly of Susan S. Aldrich; thence westerly crossing said Road to Elmdale, thirty-two (32) feet more or less to the northeasterly corner of land now or formerly of Irving H. Baker and wife; thence westerly in the northerly line of said Baker land, land now or formerly of Susan S. Aldrich and land now or formerly of John W. Coggeshall, thirteen hundred seventy-seven (1,377) feet more or less; thence southerly in the westerly line of said Coggeshall land, two hundred fifty-five (255) feet more or less; thence southwesterly in the northwesterly line of said Coggeshall land, seven hundred nineteen (719) feet more or less to a point in the northerly line of the said Danielson Pike; thence westerly in the northerly line of said Danielson Pike, five hundred fifty-seven (557) feet more or less; thence north seven (7) degrees, twenty-one (21) minutes west, crossing land now or formerly of Henrietta Angell and others, seven hundred sixteen (716) feet more or less to the southeasterly corner of a cemetery on land of said Angell; thence northerly in the easterly line of said cemetery eighty-eight (88) feet more or less; thence westerly in the northerly line of said cemetery, one hundred thirty-one (131)
72 feet more or less to a point in the easterly line of the Elmdale Cross Road, so-called; thence northerly in the easterly line of said Elmdale Cross Road, three hundred twenty (320) feet more or less to an angle in said road; thence continuing northerly in range with said easterly line and crossing said Elmdale Cross Road forty-two (42) feet more or less; thence north twelve (12) degrees, fifty-one (51) minutes east, crossing land of the City of Providence, formerly of Irving G. Spencer, the Hartford Pike, so-called, and land now or formerly of Susan A. Harris, three thousand one hundred ten (3,110) feet more or less to a point in the southerly line of Quaker Lane, so-called; thence easterly in the southerly line of said

Quaker Lane and an extension of said line across the road leading northerly from Elmdale by the Rocky Hill school, three hundred seventy (370) feet more or less to the easterly line of said last mentioned road; thence northerly in the easterly line of said last mention-d road, crossing the Rocky Hill road, so-called, two thousand six hundred five (2,605) feet more or less to the intersection of the northerly line of the said Rocky Hill road and the easterly line of the said road leading northerly from Elmdale by the Rocky Hill school; thence easterly in the northerly line of the said Rocky Hill road seventy-two (72) feet more or less; thence northerly in the easterly line of the Rocky Hill school lot, forty-eight (48) feet more or less; thence westerly in the northerly line of said school lot, sixty-five (65) feet more or less to the easterly line of the said road leading northerly from Elmdale; thence northerly in the easterly line of said last mentioned road one hundred five (105) feet more or less to the southwesterly corner of a cemetery; thence easterly in the southerly line of said cemetery one hundred ninety-one (191) feet more or less; thence northerly in the easterly line of said cemetery sixty-two (62) feet more or less; thence westerly in the northerly line of said cemetery one hundred seventy-six (176) feet more or less to the easterly line of said road leading northerly from Elmdale; thence northerly in the easterly line of said last mentioned road, eight hundred ninety-nine (899) feet more or less to the southerly line of the road leading easterly by Harrisdale Pond, so-called; thence easterly in the southerly line of said last mentioned road, nine hundred fifty-two (952) feet more or less to the westerly line of the road leading southerly through Harrisdale; thence southerly in the westerly line of said last mentioned road, seven hundred thirteen (713) feet more or less to the northeasterly corner of land now or formerly of the North Scituate Cotton Mills; thence easterly crossing said last mentioned road twenty-nine (29) feet more or less to the southwesterly corner of land now or formerly of Asahel H. Harris Heirs; thence easterly in the southerly line of said Harris Heirs land and land now or formerly of Henry H. Slocum, nine hundred forty-one (941) feet more or less; thence southerly in the westerly line of land now or formerly of Harley T. Luther, six hundred twenty-eight (628) feet more or less; thence westerly in the
73 northerly line of land now or formerly of William H. Knight, seven hundred twenty (720) feet more or less; thence northerly in the easterly line of land now or formerly of Ada E. Corey, and land now or formerly of Anna L. Corey, six hundred four (604) feet more or less; thence westerly in the northerly line of land of said Anna L. Corey forty (40) feet more or less to a point in the easterly line of the said road leading southerly through Harrisdale; thence westerly crossing said road thirty-three (33) feet more or less; thence southerly in the westerly line of said last mentioned road and continuing across the said Rocky Hill road one thousand nine hundred forty (1,940) feet more or less to a point in the southerly line of said Rocky Hill road; thence easterly in the southerly line of said road ten hundred thirty-eight (1,038) feet more or less to a point at the northwesterly corner of land now or formerly of

Myra M. Peckham; thence southerly in the westerly line of said Peckham land, eleven hundred seventy-three (1,173) feet more or less to a point in the northerly line of land now or formerly of Benjamin F. Smith; thence south fifty-nine (59) degrees, thirty-eight (38) minutes east, crossing land of said Smith, twelve hundred twenty-seven (1,227) feet more or less, to a point in the southerly line of said Smith land; thence easterly in the southerly line of said Smith land, two hundred (200) feet more or less to the southeasterly corner of said Smith land; thence south seventy-three (73) degrees, eight (8) minutes east, crossing land now or formerly of Rebecca Levin, seven hundred fifty (750) feet; thence north sixty-three (63) degrees, forty-five (45) minutes east, crossing said Levin land and the Greenville road, so-called, ten hundred sixty-two and eight-tenths (1,062.8) feet more or less to a point in the easterly line of said Greenville road; thence southerly in the easterly line of said Greenville road, five hundred twenty-six and four-tenths (526.4) feet more or less to a point in the northwesterly corner of land now or formerly of the North Scituate Cotton Mills; thence north thirty (30) degrees, twenty-four (24) minutes east, crossing land now or formerly of Benjamin F. Smith, ten hundred ninety-eight and one-tenth (1,098.1) feet; thence north fifty-four (54) degrees, thirty-seven (37) minutes east, crossing said Smith land and land now or formerly of W. S. Bennett Blanchard and others, three thousand one hundred fifty-eight and seven-tenths (3,158.7) feet more or less to the easterly line of said Blanchard land; thence northerly in the easterly line of said Blanchard land, eight hundred thirty (830) feet more or less; thence north five (5) degrees, seven (7) minutes west, crossing land now or formerly of John D. Blanchard and others, one hundred sixty-seven (167) feet more or less to a point in the southerly line of the aforementioned Greenville road; thence easterly in the southerly line of said Greenville road, nine hundred eighty-four (984) feet more or less to the northwesterly corner of a cemetery near the junction of said Greenville road with Winsor avenue, so-called; thence southerly in the westerly line of said cemetery, fifty-eight (58) feet more or less to the southwesterly corner
74 thereof; thence south twenty-seven (27) degrees, fifty (50) minutes east, crossing land of said John D. Blanchard and others, one thousand eight hundred sixty-one and one-tenth (1,861.1) feet more or less to a point at an angle in the westerly line of land now or formerly of Elisha A. Winsor; thence south nine (9) degrees, eight (8) minutes west, crossing said Elisha A. Winsor land and land now or formerly of William H. Watson, one thousand one hundred sixty-nine and two-tenths (1,169.2) feet; thence south thirty-five (35) degrees, thirty (30) minutes west, crossing said Watson land, seven hundred seventy-five (775) feet; thence south twenty-three (23) degrees, seven (7) minutes west, crossing said Watson land and land now or formerly of Willis S. Knowles Estate, nine hundred sixty-five (965) feet more or less to a point in the boundary line between the Towns of Scituate and Johnston; thence south three (3) degrees, forty-nine (49) minutes west in said boundary line, crossing land now or formerly of said Knowles Es-

tate, land now or formerly of Edward Fontaine and land now or formerly of Pasquale Campanile, one thousand eight hundred forty (1,840) feet; thence south eighty (80) degrees, twenty-three (23) minutes west, crossing said Campanile land, land now or formerly of Allen U. Barber and land now or formerly of Charles H. Davis, one thousand four hundred twenty-nine and two-tenths (1,429.2) feet; thence south sixty-two (62) degrees, fifteen (15) minutes west, crossing said Davis land four hundred ninety (490) feet more or less to a point in the northerly line of the before mentioned Hartford Pike; thence westerly in the northerly line of said Hartford Pike, crossing the said Greenville road, two thousand two hundred seventy-eight (2,278) feet more or less to a point at the intersection of the northerly line of the said Hartford Pike with the westerly line of the said Greenville road; thence southerly crossing said Hartford Pike and in the westerly line of said Greenville road, one thousand one and four-tenths (1,001.4) feet more or less to the northeasterly corner of a school lot, land of the Town of Scituate; thence westerly in the northerly line of said school lot and the Smithville Cemetery, seven hundred fifty-seven and three-tenths (757.3) feet more or less; thence southerly in the westerly line of said cemetery three hundred twelve and five-tenths (312.5) feet; thence north fifty-one (51) degrees, twenty-seven (27) minutes west, crossing land now or formerly of Adelbert L. Wood and wife, twenty-one and seven-tenths (21.7) feet; thence south twenty-eight (28) degrees, thirty (30) minutes west, crossing said Wood land forty (40) feet more or less; thence southerly partly in the westerly line of a passway leading to the Smithville Cemetery and partly in the westerly line of Silk Lane, so-called, two hundred sixty-one and nine-tenths (261.9) feet; thence north sixty-two (62) degrees, twenty-one (21) minutes west, crossing said Adelbert L. Wood and wife land, two hundred twenty-seven and eight-tenths (227.8) feet more or less; thence southerly in the westerly line of said Wood land, land now or formerly of
75 Mary A. Austin, land now or formerly of Effie Robinson and Estella C. Colvin, land now or formerly of Estella C. Colvin and land now or formerly of Emma B. Potter and E. Maud Kenyon, three hundred twenty-five and four-tenths (325.4) feet; thence north seventy-five (75) degrees, forty-two (42) minutes west, crossing land now or formerly of Daniel A. Clarke, Jr. and Charles K. Clarke, one hundred eighty-nine (189) feet; thence south thirty (30) degrees, seventeen (17) minutes west, crossing land of the City of Providence, formerly of David O. Chapman, forty (40) feet, thence southerly in the easterly line of said City of Providence land and crossing the before mentioned Danielson Pike, (in this locality sometimes called Main street), one hundred eight (108) feet more or less to a point in the southerly line of said Danielson Pike; thence westerly in the southerly line of said Danielson Pike, sixty-eight and two-tenths (68.2) feet to a point at the northwesterly corner of land now or formerly of Mary I. Winsor; thence southerly in the westerly line of said Winsor land, one hundred forty-eight (148) feet more or less; thence easterly in the southerly line of said Winsor land, land now or formerly of Sarah M. and Mary E. Snell and land

now or formerly of Amey A. Smith, two hundred five (205) feet more or less to a point in the westerly line of land now or formerly of William F. Angell; thence southerly in the westerly line of said Angell land, sixty (60) feet more or less; thence south sixty-six (66) degrees, twenty-six (26) minutes east, crossing said Angell land, a right of way now or formerly of William F. Angell and others and other land of said Angell, two hundred forty-six and three-tenths (246.3) feet more or less to a point at the southwesterly corner of land now or formerly of E. Gertrude Clarke; thence easterly in the southerly line of said Clarke land and land now or formerly of Daniel A. Clarke, Jr. and others, one hundred thirty-five and four-tenths (135.4) feet to a point at the southeasterly corner of said Daniel A. Clarke, Jr. and others land; thence south seventy-three (73) degrees, eight (8) minutes east, crossing other land of said E. Gertrude Clarke and land now or formerly of Susan A. Harris, one hundred seventy-six and six-tenths (176.6) feet more or less; thence easterly in the southerly line of other land of said Susan A. Harris, seventy-nine and seven-tenths (79.7) feet more or less to the southwesterly corner of land now or formerly of Lyman M. Smith and wife; thence south sixty-one (61) degrees, four (4) minutes east, crossing land now or formerly of William T. Smith and wife, sixty-six (66) feet more or less; thence south sixty-two (62) degrees twelve (12) minutes east, crossing said Smith land, sixty-eight and two-tenths (68.2) feet to the southwesterly corner of land now or formerly of Phebe A. and Elizabeth B. Boss; thence easterly in the southerly line of said Boss land, seventy-eight (78) feet more or less; thence south sixty (60) degrees, fifty-eight (58) minutes east, crossing land now or formerly of Everett W. Adams and wife, land now or formerly of Mercie A. Luther, land now or formerly of John D. Whipple and the North Scituate-Kent road, so-called, three
76 hundred twenty-one and nine-tenths (321.9) feet to a point in the easterly line of said North Scituate-Kent road; thence southerly in the easterly line of said North Scituate-Kent road, one hundred seventy and three-tenths (170.3) feet to a point at the southwesterly corner of land now or formerly of Chester L. Smith and others; thence easterly in the southerly line of said Smith land, six hundred fifty (650) feet more or less to the southeast corner of said Smith land; thence south eleven (11) degrees, forty-three (43) minutes west, three hundred ninety-four and five-tenths (394.5) feet; thence south sixty-one (61) degrees, thirty-two (32) minutes east, six hundred twenty-nine and three-tenths (629.3) feet; thence south ten (10) degrees, forty-three (43) minutes west, one hundred and seventy-six and one-tenth (176.1) feet; thence south eleven (11) degrees, forty (40) minutes east, nine hundred thirty-eight and one-tenth (938.1) feet more or less to a point at the northwesterly corner of land now or formerly of Albert J. Farrow, the last four (4) courses crossing land now or formerly of Edward P. and Cynthia A. H. Harris; thence southerly in the westerly line of said Albert J. Farrow land and the westerly line of land now or formerly of Walter J. Farrow, crossing the Brandy Brook road, so-called, one thousand three hundred fifty-seven (1,357) feet more or less to a

point in the southerly line of said Brandy Brook road; thence easterly and southerly in the southerly and westerly line of said Brandy Brook road, two thousand two hundred eighty-four (2,284) feet more or less to the northeasterly corner of land now or formerly of Louis W. Harris; thence westerly in the northerly line of said Harris land four hundred fifty-one (451) feet more or less; thence southerly in the westerly line of said Harris land four hundred eighty (480) feet more or less; thence easterly in the southerly line of said Harris land, one hundred twenty-eight (128) feet more or less; thence southerly in the westerly line of said Harris land and crossing the Saundersville Pike, so-called, three hundred eighty-five (385) feet more or less to a point in the southerly line of said Pike at the northwesterly corner of land now or formerly of Ethel S. Hanscom; thence southerly and westerly in the westerly and northerly line of said Hanscom land, nine hundred forty-five (945) feet more or less to a point in the easterly line of land now or formerly of Randall R. Hopkins; thence northerly in the easterly line of said Hopkins land and crossing said Saundersville Pike, one hundred sixty-six (166) feet more or less to a point in the northerly line of said Saundersville Pike; thence westerly in the northerly line of said pike, one thousand four hundred forty-one (1,441) feet more or less; thence southerly crossing said Saundersville Pike, fifty (50) feet more or less to the northwesterly corner of said Randall R. Hopkins land; thence southerly in the westerly line of said Hopkins land one hundred sixty-six (166) feet more or less; thence westerly in the northerly line of said Hopkins land, seventy-two (72) feet more or less; thence southerly in the westerly line of said
77 Hopkins land two hundred thirty (230) feet more or less; thence easterly in the southerly line of said Hopkins land crossing land now or formerly of Harriet F. Card and continuing in the southerly line of said Hopkins land, one thousand fifteen (1,015) feet more or less; thence southerly in the westerly line of said Hopkins land and land now or formerly of Charles H. Davis, six hundred seventy-three (673) feet more or less; thence westerly in line with said Davis land forty-eight (48) feet more or less; thence southerly in the westerly line of said Davis land and land now or formerly of Harrison T. Winsor, one thousand two hundred fifteen (1,215) feet more or less; thence westerly in the northerly line of land now or formerly of Olive G. Weeden, four hundred fifty-five (455) feet more or less; thence southerly in the westerly line of said Weeden land crossing the William T. Henry road, so-called, one thousand eight hundred seventy-nine (1,879) feet more or less to a point in the southerly line of said William T. Henry road at the northwesterly corner of land now or formerly of Jennie M. Peterson; thence southerly in the westerly line of said Peterson land crossing the Byron Randall road, so-called, one thousand two hundred forty-eight (1,248) feet more or less to a point in the southerly line of said Byron Randall road; thence easterly and southerly in the southerly and westerly line of said Byron Randall road, three thousand seven hundred two (3,702) feet more or less to the northeasterly corner of land now or formerly of George H. Howard;

thence northerly crossing said Byron Randall road, thirty-seven (37) feet more or less to a point in the northerly line of said road at the southwesterly corner of land now or formerly of Alfred H. Williams; thence northerly in the easterly line of land now or formerly of John O. Waterman Heirs, seven hundred sixty-eight (768) feet more or less; thence easterly in the southerly line of said Waterman land, six hundred thirty-nine (639) feet more or less, to a point in the westerly line of said Byron Randall road; thence southerly in the westerly line of said Byron Randall road, three hundred fifty (350) feet more or less; thence easterly crossing the said Byron Randall road, thirty-four (34) feet more or less to a point in the easterly line of said road at the southwesterly corner of other land of said John O. Waterman Heirs; thence easterly and northeasterly in the southerly and southeasterly line of said Waterman land, eight hundred forty-five (845) feet more or less to a point in the southerly line of said Byron Randall road; thence easterly in the southerly line of said road, eight hundred eight (808) feet more or less to the southwesterly corner of land now or formerly of Barnet Mistofsky; thence easterly in the southerly line of said Mistofsky land, three hundred eighty-six (386) feet more or less to the northwesterly corner of land now or formerly of Anthony H. Lotito and others; thence southerly in the westerly line of said Lotito land and land now or formerly of Sarah M. Sprague, three thousand four hundred twenty-six (3,426) feet more or less to a point in the westerly line of the Shun
78 Pike, so-called; thence southwesterly in the northwesterly line of said Shun Pike, one hundred (100) feet more or less; thence southerly, crossing said Shun Pike, continuing in the westerly line of said Sarah M. Sprague land and crossing the Plainfield Pike, so-called, seven hundred seventy-nine (779) feet more or less to a point in the southerly line of said Plainfield Pike at the northwesterly corner of land now or formerly of George W. Lovell Heirs; thence southerly in the westerly line of said Lovell land two hundred seventy (270) feet more or less; thence easterly in the southerly line of said Lovell land two hundred seventeen (217) feet more or less; thence southerly in the westerly line of said Lovell land three hundred forty-four (344) feet more or less; thence westerly in the northerly line of land now or formerly of Ezra H. Perry, six hundred fifty-four (654) feet more or less; thence northerly in line with said Perry land, crossing said Plainfield Pike, two hundred ninety-three (293) feet more or less to a point in the northerly line of said Plainfield Pike; thence westerly in the northerly line of said Plainfield Pike, one thousand seven hundred seventy and five-tenths (1,770.5) feet more or less to the southeasterly corner of land now or formerly of James B. McGinn; thence northerly in the easterly line of said McGinn land, nine hundred twenty-one (921) feet more or less; thence southwesterly in the northwesterly line of said McGinn land seventy-seven (77) feet more or less; thence westerly in the northerly line of land now or formerly of Fannie Bush, one thousand three hundred thirty-two (1,332) feet more or less to a point in the easterly line of the Clarke Potter road, so-called, at the northwesterly corner of said Bush land; thence northerly in

the easterly line of said Clarke Potter road, one thousand six hundred seventeen (1,617) feet more or less; thence westerly crossing said road and running in the northerly line of land now or formerly of Mary Waterman and land now or formerly of Charles E. Kingsley, two thousand four hundred one (2,401) feet more or less; thence southerly in the westerly line of said Kingsley land, one thousand two hundred fifty-two (1,252) feet more or less; thence westerly in line with said Kingsley land one thousand one hundred two (1,102) feet more or less; thence southerly in the westerly line of said Kingsley land, seven hundred seventy-three (773) feet more or less; thence easterly in line with said Kingsley land one hundred ninety-eight (198) feet more or less; thence southerly in line with said Kingsley land and crossing said Plainfield Pike, three hundred seventy (370) feet more or less to a point in the southerly line of said Plainfield Pike; thence easterly in the southerly line of said Plainfield Pike, six hundred sixty-five (665) feet more or less to the northwesterly corner of land now or formerly of Fannie H. Irons; thence southerly in the westerly line of said Irons land, two hundred two (202) feet more or less; thence easterly in the southerly line of said Irons land, three hundred fourteen (314) feet more or less; thence northerly, easterly and northerly in line with
79 said Irons land, three hundred sixty (360) feet more or less to a point in the southerly line of said Plainfield Pike; thence easterly in the southerly line of said Plainfield Pike, fifteen (15) feet more or less to the northwesterly corner of land now or formerly of Elisha A. Waterman; thence southerly in the westerly line of said Waterman land, two thousand three hundred twenty-eight (2,328) feet more or less; thence easterly in the southerly line of said Waterman land, four hundred eighty-eight (488) feet more or less; thence northerly in the easterly line of said Waterman land eight hundred three (803) feet more or less to the southwesterly corner of land now or formerly of John Broadbent; thence easterly and northerly in the southerly and easterly lines of said Broadbent land, two thousand eight (2,008) feet more or less to land now or formerly of said Elisha A. Waterman; thence northerly in line with said Waterman land sixty-two (62) feet more or less; thence easterly in line with said Waterman land, five hundred forty-seven (547) feet more or less; thence north seventeen (17) degrees, thirty-nine (39) minutes west; crossing said Waterman land, four hundred forty-eight and five-tenths (448.5) feet to a point in the southerly line of said Plainfield Pike; thence easterly in the southerly line of said Plainfield Pike, eighty-one (81) feet more or less to the northwesterly corner of other land now or formerly of James B. McGinn; thence southerly, easterly, southerly, easterly and northerly in the westerly, southerly, westerly, southerly and easterly line of said McGinn land, two thousand five hundred four (2,504) feet more or less to a point in the southerly line of said Plainfield Pike; thence easterly in the southerly line of said Plainfield Pike, one thousand three hundred thirty-two (1,332) feet more or less to the northwesterly corner of land now or formerly of Olive B. F. Greene; thence southerly in the westerly line of said Greene land, one hun-

dred fifty-nine (159) feet more or less; thence easterly in the southerly line of said Greene land, three hundred twenty-nine (329) feet more or less to said Ezra H. Perry land; thence southerly in the westerly line of said Perry land, one thousand one hundred seventy-nine (1,179) feet more or less; thence in a general easterly and southerly direction in the general southerly and westerly line of said Perry land, one thousand six hundred forty-seven (1,647) feet more or less to the northwesterly corner of land now or formerly of Susannah Y. Hawkins Heirs; thence southerly in the westerly line of said Hawkins land, eight hundred twenty-three (823) feet more or less to a point in the northerly line of land now or formerly of Isaac N. Mumford; thence westerly, southerly and westerly in line of said Mumford land, crossing the Betty Pond road, so-called, one thousand seven hundred ten (1,710) feet more or less to the northeasterly corner of land now or formerly of John B. W. Greene; thence southerly in the westerly line of said Betty Pond road, eight hundred thirty-seven (837) feet more or less; thence south sixty-two (62) degrees, seven (7) minutes west crossing said John B. W. Greene land one hundred fifty-seven and eight-tenths (157.8) feet more or less to the northeasterly corner of land now or formerly of Henry A. Lawton; thence southerly in the westerly line of said John B. W. Greene land, eight hundred fifty-eight (858) feet more or less; thence south five (5) degrees, twenty-one (21) minutes west, crossing other land now or formerly of said Henry A. Lawton, seven hundred twenty-one and five-tenths (721.5) feet more or less; thence southerly in the westerly line of said John B. W. Greene land, two thousand nine hundred fifty-five (2,955) feet more or less to the northeasterly corner of land now or formerly of Ebenezer Kelley Heirs; thence westerly in the northerly line of said Kelley land, thirty-three (33) feet more or less; thence southerly in the westerly line of said Kelley land two hundred ten (210) feet more or less to the corner of land now or formerly of John C. Smith; thence southwesterly in the northwesterly line of said Smith land, seven hundred fifty-five (755) feet more or less; thence westerly in the northerly line of said Smith land, one hundred forty-seven (147) feet; thence south fifty-three (53) degrees, three (3) minutes west, crossing said Smith land and the Bald Hill road, so-called, four hundred ten (410) feet to a point in the westerly line of said Bald Hill road; thence southerly in the westerly line of said Bald Hill road, two hundred thirty (230) feet more or less; thence south thirty-five (35) degrees, four (4) minutes east, crossing other land now or formerly of said John C. Smith, one thousand two hundred sixteen (1,216) feet more or less to the northwesterly corner of land now or formerly of George A. Wyman; thence in a general southerly direction in the westerly line of said Wyman land, two thousand one hundred seventy-nine (2,179) feet more or less; thence westerly in the southerly line of land now or formerly of Hannah M. and Harden I. Fiske, five hundred sixteen (516) feet more or less; thence southerly in the easterly line of said Fiske land, seven hundred eighty-seven (787) feet more or less; thence in a general westerly direction in the southerly line of

said Fiske land two thousand three hundred eighty-four (2,384) feet more or less; thence north nine (9) degrees, twenty-one (21) minutes west, crossing said Fiske land, one thousand four hundred forty-three and three-tenths (1,443.3) feet; thence south sixty (60) degrees, fifteen (15) minutes west, seven hundred seven (707) feet, crossing said Fiske land to a point in the easterly line of the Kent-Hope East Road, so-called; thence westerly crossing said road, thirty-one (31) feet more or less to the southeasterly corner of land of the City of Providence, formerly of Edgar S. Yeaw and wife; thence northerly in the westerly line of said Kent-Hope East Road, ninety-five and seven-tenths (95.7) feet; thence south sixty-five (65) degrees, thirty-seven (37) minutes west, crossing said land formerly of said Yeaw, seventy-five (75) feet; thence north forty-one (41) degrees, twenty-six (26) minutes west, crossing said land formerly of said Yeaw and other City of Providence land, formerly of John W. Powell and wife, five hundred forty-three and seven-
81 tenths (543.7) feet; thence north eighty-four (84) degrees, fifty (50) minutes west, in the northerly line of said land formerly of said Powell, four hundred (400) feet; thence south six (6) degrees, ten (10) minutes west, crossing said land formerly of said Powell and said land formerly of said Yeaw, four hundred six and five-tenths (406.5) feet to a point in the northerly line of other land now or formerly of said Hannah M. and Harden I. Fiske; thence westerly in the northerly line of said Fiske land eight hundred thirty-seven (837) feet more or less to a point in the center of the Pawtuxet river, so-called; thence southerly with the center of said river in the westerly line of said Hannah M. and Harden I. Fiske land, one thousand nine hundred (1,900) feet more or less to a point in the river at the northeasterly corner of land now or formerly of Frank W. Howard and wife; thence westerly in the northerly line of said Howard land, four hundred forty (440) feet more or less, to a point in the easterly line of the Kent-Hope West Road, so-called, at the northwesterly corner of said Howard land; thence northerly in the easterly line of said Kent-Hope West Road, one thousand sixty (1,060) feet more or less; thence westerly crossing said road, forty (40) feet more or less to the westerly line of said Kent-Hope West Road at the northeasterly corner of land now or formerly of George P. Howard; thence westerly in the northerly line of said George P. Howard land, one thousand two hundred eighty-three (1,283) feet more or less; thence north seventeen (17) degrees, nine (9) minutes west, crossing land now or formerly of Asa E. Colvin, the Burnt Hill road, so-called, and land of the City of Providence, formerly of Arthur S. Field, one thousand six hundred forty-four and three-tenths (1,644.3) feet; thence south seventy-two (72) degrees, fifty-one (51) minutes west, crossing land formerly of said Field, land of said Asa E. Colvin and land now or formerly of John C. Smith, two thousand six hundred eighty-seven and six-tenths (2,687.6) feet to a point in the southerly line of said John C. Smith land; thence westerly in the southerly line of said Smith land, eight hundred fifty (850) feet more or less to the northwesterly corner of land now or formerly of Emery Walker and

wife; thence southerly in the westerly line of said Emery Walker and wife land, one hundred nineteen (119) feet more or less; thence south seventy-two (72) degrees, fifty-one (51) minutes west, crossing land of the City of Providence, formerly of Lyman A. Knight, and land of the City of Providence, formerly of Frank M. Knight, three thousand one hundred fifteen and five-tenths (3,115.5) feet more or less; thence northwesterly through land of said City of Providence, formerly the easterly boundary of said Lyman A. Knight land, seven hundred ten (710) feet more or less; thence north twelve (12) degrees, fifty-one (51) minutes east, crossing said land formerly of Frank M. Knight, the Kent-Coventry road, so-called and other land of the City of Providence, formerly of Lyman A. Knight, two thousand seven hundred sixty-four and four-tenths (2,764.4) feet more or less to a point in the southerly line
82 of land now or formerly of Sylvania Whitman and Benjamin F. Whitman; thence easterly in the southerly line of said Whitman land and crossing the Tunk Hill road, so-called, one thousand five hundred thirty-seven (1,537) feet more or less to a point in the northerly line of said Tunk Hill road; thence northerly in the easterly line of said road two hundred eighty (280) feet more or less; thence westerly, crossing said road thirty-three (33) feet more or less to the northeast corner of said Whitman land; thence westerly and northerly in line with said Whitman land eight hundred twenty-five and six-tenths (825.6) feet more or less to a point in the southerly line of said Tunk Hill road; thence northerly, crossing said road and continuing in the easterly line of other land of said Sylvania Whitman and Benjamin F. Whitman, two thousand eighty-six (2,086) feet more or less; thence easterly in the line of said Whitman land ninety-five and five-tenths (95.5) feet, more or less; thence northerly in the line of said Whitman land five hundred ninety-seven (597) feet more or less; thence easterly in the southerly line of other land of said Sylvania and Benjamin F. Whitman, one thousand three hundred (1,300) feet more or less; thence northerly in the easterly line of said Whitman land and land now or formerly of Amy Angell Heirs, one thousand two hundred ninety-three (1,293) feet more or less to the southwesterly corner of land now or formerly of Hannah M. and Harden I. Fiske; thence easterly in the southerly line of said Fiske land, six hundred sixty (660) feet more or less; thence northerly in the easterly line of said Fiske land, six hundred sixty (660) feet more or less; thence westerly in the northerly line of said Fiske land, land now or formerly of said Amy Angell Heirs, land now or formerly of the Scituate Light and Power Company and land now or formerly of John C. Smith, two thousand six hundred forty (2,640) feet more or less; thence northerly in the easterly line of said Smith land, six hundred thirty-eight (638) feet more or less; thence northeasterly in line of land now or formerly of William W. Knight, four hundred ten (410) feet more or less; thence westerly in the northerly line of said Knight land and land now or formerly of Benjamin H. Shippee, one thousand five hundred sixty-seven (1,567) feet more or

less to the southeasterly corner of land now or formerly of Elizabeth J. Wilbur; thence northerly in the easterly line of said Wilbur land, eight hundred seventy-seven (877) feet more or less; thence westerly in the northerly line of said Wilbur land, three hundred twenty (320) feet more or less, to a point in the easterly line of the aforementioned Tunk Hill road; thence northerly in the easterly line of said Tunk Hill road, crossing the aforementioned Plainfield Pike six hundred thirty-five (635) feet more or less to a point in the northerly line of said Plainfield Pike; thence westerly in the northerly line of said Pike eight hundred thirty-five (835) feet more or less to the southwesterly corner of land of the City of Providence, formerly of Elizabeth O. Salisbury; thence southerly crossing said Plain-
83 field Pike ninety-five (95) feet more or less to the northwesterly corner of land now or formerly of James F. Hervey; thence southerly in the westerly line of said Hervey land one hundred fifty-nine (159) feet more or less; thence easterly in the southerly line of said Hervey land, two hundred sixty-nine (269) feet more or less; thence north seventy-seven (77) degrees, forty-seven (47) minutes east, crossing land now or formerly of Benjamin Wilbur and others, forty-one and nine-tenths (41.9) feet; thence south seventy-eight (78) degrees, thirty-nine (39) minutes east, crossing said Wilbur land two hundred seventy-five (275) feet more or less; thence southerly in the westerly line of land now or formerly of Elizabeth J. Wilbur, seven hundred ninety (790) feet more or less; thence westerly in line with said Wilbur land, the northerly line of land now or formerly of Wilson E. Barden, land now or formerly of Ezra R. Knight and wife, eight hundred ninety-four (894) feet more or less; thence southerly in the westerly line of said Knight land two hundred eighty and five-tenths (280.5) feet; thence north seventy-five (75) degrees, five (5) minutes west, crossing land of said Benjamin Wilbur and others, one thousand two hundred two and five tenths (1,202.5) feet more or less to a point in the southerly line of said Plainfield Pike; thence easterly in the southerly line of said Plainfield Pike, one thousand four hundred thirty-two (1,432) feet more or less to the northwesterly corner of land of the City of Providence, formerly of Benjamin Wilbur; thence northerly crossing said Plainfield Pike fifty-seven and three-tenths (57.3) feet more or less to a point in the northerly line of said Plainfield Pike at the southeasterly corner of land now or formerly of Philip Almy; thence in a general northerly direction in the easterly line of said Almy land two thousand three hundred seventy-two (2,372) feet more or less to the southeasterly corner of land now or formerly of Leonard R. Field and others; thence northerly in the easterly line of said Field land crossing Fields Hill road, so-called, seven hundred ninety (790) feet more or less, to a point in the northerly line of said Fields Hill road; thence north fourteen (14) degrees, fifty-four (54) minutes east, crossing other land now or formerly of said Leonard R. Field and others two hundred fifty (250) feet; thence north thirty-eight (38) degrees, seven (7) minutes west, crossing said Field land, two thousand eight hundred seven and eight-tenths (2,807.8) feet more or less to the northeasterly

corner of land now or formerly of Mary Malbourne Heirs; thence westerly in the northerly line of said Malbourne land six hundred ten (610) feet more or less; thence northerly in line with said Malbourne land four hundred sixty-five (465) feet more or less; thence southwesterly in line with said Malbourne land seven hundred sixty-nine (769) feet more or less; thence westerly in line with said Malbourne land and the northerly line of land now or formerly of Amedeo Sabatini and others, one thousand five (1,005) feet more or less; thence northerly in line with said Sabatini land one hundred forty-eight (148) feet more or less; thence westerly
84 in line with said Sabatini land one hundred ninety-seven (197) feet more or less to a point in the easterly line of the George P. King road, so-called; thence northerly in the easterly line of said road ninety-eight (98) feet more or less; thence westerly crossing said George P. King road and continuing in the northerly line of other land now or formerly of said Amedeo Sabatini and others, seven hundred fifty-three (753) feet more or less; thence southerly in the westerly line of said Sabatini land, two hundred fifty-eight (258) feet more or less to the northerly line of said George P. King road; thence westerly in the northerly line of said road, one hundred fifty (150) feet more or less; thence westerly in the northerly line of other land now or formerly of said Amedeo Sabatini and others, three hundred fifty-seven (357) feet more or less; thence southerly in the westerly line of said Sabatini land, three hundred thirty-eight (338) feet more or less to a point in the northerly line of said George P. King road; thence westerly in the northerly line of said road twenty-one (21) feet more or less; thence westerly in the northerly line of land now or formerly of Charles 0. Angell one thousand two hundred eighty-two (1,282) feet more or less; thence in a general northerly direction in the easterly line of land now or formerly of Max L. Kramer and wife, land now or formerly of Fred Brusby and wife, and land now or formerly of John H. Comstock and wife two thousand five hundred twelve (2,512) feet more or less; thence westerly in the northerly line of said Comstock land and the northerly line of land now or formerly of John Greenwood and wife nine hundred twenty (920) feet more or less to a point in the easterly line of the Knight Hill road, so-called; thence northerly in the easterly line of said Knight Hill road, crossing the Rockland-Clayville road, so-called, one thousand ninety-seven (1,097) feet more or less to a point in the northerly line of said Rockland-Clayville road; thence westerly in the northerly line of said road eighty-five and four-tenths (85.4) feet to the southeasterly corner of land now or formerly of Otis W. Paine and wife; thence northerly in the easterly line of said Paine land one hundred sixty-five (165) feet more or less; thence westerly in the northerly line of said Paine land one hundred thirty-two (132) feet more or less; thence southerly in the westerly line of said Paine land one hundred fifty-nine (159) feet more or less to a point in the northerly line of said Rockland-Clayville road; thence westerly in the northerly line of said road four hundred sixty-four (464) feet more or less to the southeasterly corner of land now or formerly of Albert Bassett

and wife; thence northerly in the easterly line of said Bassett land three hundred eighteen (318) feet more or less; thence south sixty-five (65) degrees, eighteen (18) minutes west, crossing land of said Bassett and land now or formerly of William L. Round and wife, four hundred seventy-seven (477) feet more or less to the north-easterly corner of land now or formerly of John H. and Harry H. Luther; thence westerly in the northerly line of said Luther land ninety-eight (98) feet more or less; thence southerly in
85 the westerly line of said Luther land, crossing said Rockland-Clayville road three hundred thirty-two (332) feet more or less, to a point in the southerly line of said Rockland-Clayville road; thence easterly in the southerly line of said road one thousand twenty (1,020) feet more or less, to the northwesterly corner of land now or formerly of Charles M. Warner Heirs; thence southerly in the westerly line of said Warner land two hundred seventy-one (271) feet more or less; thence southerly in the westerly line of land now or formerly of Henry K. Luther and The Joslin Manufacturing Company nine hundred eighty-one (981) feet more or less to the north-easterly corner of land now or formerly of Arthur C. Rounds; thence westerly in the northerly line of said Rounds land three hundred eighty-six (386) feet more or less to land now or formerly of Orrison Cole; thence northwesterly and southwesterly in line with said Cole land one thousand two hundred ninety-one (1,291) feet more or less to the southeasterly corner of land now or formerly of Leon B. Pierce; thence northerly in the easterly line of said Pierce land and land now or formerly of John A. Round and wife, three hundred forty-four (344) feet more or less; thence westerly crossing the aforementioned Fields Hill road two hundred twenty-six (226) feet more or less to a point in the westerly line of said Fields Hill road; thence southerly in the westerly line of said road four hundred thirty (430) feet more or less to the northwesterly corner of land now or formerly of Alwilda Pierce; thence southwesterly in the northwesterly line of said Pierce land four hundred fifteen (415) feet more or less; thence south seventeen (17) degrees, thirty-one (31) minutes west, crossing land now or formerly of Delphine Ducharme and land now or formerly of Harriet A. Hill one thousand five hundred ninety-four and one-tenth (1,594.1) feet; thence south twenty-six (26) degrees, fifty-eight (58) minutes west, crossing land now or formerly of said Harriet A. Hill, land now or formerly of Jennie M. Lillibridge, other land now or formerly of Harriet A. Hill, land now or formerly of Herbert H. Taylor, land now or formerly of Maria A. Sayles, land now or formerly of Bogardus F. Hyde and land now or formerly of Byron M. Lewis, seven thousand three hundred twelve and three-tenths (7,312.3) feet more or less to a point in the northerly line of the aforementioned Plainfield Pike; thence westerly in the northerly line of said pike one thousand one hundred twelve (1,112) feet more or less to the intersection of the northerly line of said Plainfield Pike with the easterly line of the Isthmus road, so-called; thence in a general northerly direction in the easterly line of said Isthmus road ten thousand eight hundred seventy-six (10,876) feet more or less; thence south eighty-three (83) degrees, fifty-four (54)

minutes east, crossing land now or formerly of Brayton A. Round six hundred ten and nine-tenths (610.9) feet more or less to the southwesterly corner of land now or formerly of Maria A. Sayles; thence easterly in the southerly line of said Sayles land one hundred forty-six (146) feet more or less to the southeasterly
86 corner of said Sayles land; thence south fifty-four (54) degrees, forty-nine (49) minutes east, crossing land now or formerly of Mary S. Phillips and land now or formerly of George H. Burgess four hundred (400) feet more or less; thence north fifty-three (53) degrees, fifty-seven (57) minutes east, crossing said Burgess land seven hundred forty-seven and nine-tenths (747.9) feet more or less to the southeasterly corner of land now or formerly of Isaac H. Jocey; thence northerly in the easterly line of said Jocey land one hundred six (106) feet more or less, to the southwesterly corner of land now or formerly of Ida M. Webster; thence easterly in the southerly line of said Webster land and land now or formerly of George H. Burgess and wife and land now or formerly of Lafayette Lodge No. 42, I. O. O. F., one hundred seventy-three (173) feet more or less; thence northerly in the easterly line of said land of Lafayette Lodge one hundred seventy-four (174) feet more or less to the northeasterly corner of said land in the southerly line of the Clayville-Foster Center road, so-called; thence easterly in the southerly line of said Clayville-Foster Center road one hundred (100) feet more or less; thence northerly in the range of the easterly line of the said Rockland-Clayville road, crossing said Fields Hill road and continuing in the easterly line of the said Rockland-Clayville road, three hundred ninety-five (395) feet more or less; thence westerly crossing said Rockland-Clayville road and continuing westerly in the northerly line of Pleasant Lane, so-called, two hundred twenty-six (226) feet more or less to the southeasterly corner of land now or formerly of Minnie S. Phillips; thence northerly in the easterly line of said Phillips land two hundred sixty (260) feet more or less; thence easterly in the southerly line of land now or formerly of Mary A. H. Pierce and land now or formerly of Alwilda Pierce, two hundred sixty-one (261) feet more or less to a point in the westerly line of said Rockland-Clayville road; thence crossing said road thirty-four (34) feet more or less to a point in the easterly line of said road at the southwesterly corner of land now or formerly of the Providence and Danielson Railway Company; thence easterly in the southerly line of said Railway Company's land ninety-nine (99) feet more or less; thence northerly in the easterly line of said land seventy-six (76) feet more or less; thence westerly in the northerly line of said land ninety-eight (98) feet more or less to a point in the easterly line of said Rockland-Clayville road; thence northerly in the easterly line of said road one hundred twenty-four (124) feet more or less to the southwesterly corner of land now or formerly of Leon B. Pierce; thence easterly in the southerly line of said Pierce land sixty-two (62) feet more or less; thence northerly in the easterly line of said Pierce land eighty-three (83) feet more or less; thence westerly in the northerly line of said Pierce land seventy (70) feet more or less, to a point in the easterly line of said Rockland-Clayville road; thence

northerly in the easterly line of said road five hundred eleven (511) feet more or less to the northwesterly corner of land now or
87 formerly of Rhoda M. King and others; thence crossing said Rockland-Clayville road sixty (60) feet more or less to a point in the northerly line of said road, at the southeasterly corner of the Providence and Danielson Railway Company's location; thence westerly in the northerly line of said road thirty-eight (38) feet more or less to the northeasterly corner of land now or formerly of John H. Luther; thence westerly in the northerly line of said Luther land four hundred sixteen (416) feet more or less; thence northerly in the easterly line of land now or formerly of John H. and Harry H. Luther five hundred and thirty-five (535) feet more or less to Bear Tree Brook, so-called; thence north thirty-two (32) degrees, four (4) minutes west, crossing land now or formerly of Mercie A. Wells three hundred seventy and eight-tenths (370.8) feet; thence north eighty-nine (89) degrees, seventeen (17) minutes east, crossing said Wells land two hundred thirty (230) feet; thence south no (0) degrees, forty-three (43) minutes west, crossing said Wells land one hundred fifty (150) feet; thence south sixty-three (63) degrees, forty-nine (49) minutes east, crossing said Wells land three hundred twenty-eight and seven-tenths (328.7) feet; thence south eighty-two (82) degrees, fifty-two (52) minutes east, crossing said Wells land one hundred seventy-one and two-tenths (171.2) feet to the location of said Providence and Danielson Railway Company; thence easterly in the northerly line of said location three hundred and three-tenths (300.3) feet; thence north four (4) degrees, thirty-two (32) minutes west, crossing said Wells land three hundred twenty-one (321) feet; thence north thirty-two (32) degrees, two (2) minutes west, crossing said Wells land two hundred thirty and three-tenths (230.3) feet; thence north forty-five (45) degrees, forty-one (41) minutes west, crossing said Wells land three hundred fifty-seven and nine-tenths (357.9) feet; thence south eighty-seven (87) degrees, fifty-eight (58) minutes east, crossing said Wells land six hundred forty-three and four-tenths (643.4) feet more or less to a point in the easterly line of said Mercie A. Wells land; thence northerly in the easterly line of said Wells land nine hundred seventy (970) feet more or less to the northeasterly corner of said Wells land; thence easterly in the southerly line of land now or formerly of Daniel H. Remington two hundred twelve (212) feet more or less to the southeasterly corner of said Remington land; thence northerly in the easterly line of said Remington land, land of the Barden Reservoir Company and crossing Hemlock road, so-called, one thousand two hundred sixty-seven (1,267) feet more or less to a point in the northerly line of said Hemlock road; thence westerly in the northerly line of said Hemlock road four thousand seven hundred fifty (4,750) feet more or less to a point at the southeasterly corner of land now or formerly of Eliza A. Barden and others; thence northerly in the easterly line of said Barden land five hundred seventy (570) feet more or less; thence north fifty-eight (58) degrees, thirty-nine (39) minutes west, crossing said Barden land nine hundred ninety-
88 five and nine-tenths (995.9) feet more or less to a point in the easterly line of land now or formerly of Willard J. Hopkins;

thence westerly in line with said Hopkins land eight hundred twenty-four (824) feet more or less; thence northerly in line with said Hopkins land eight hundred (800) feet more or less; thence westerly in line with said Hopkins land one hundred ten (110) feet more or less to a point in the easterly line of the Clayville-Hopkins Mills road, so-called; thence northerly in the easterly line of said road two thousand nine hundred forty (2,940) feet more or less, to the southerly line of the aforementioned Saundersville Pike; thence easterly in the southerly line of said pike three hundred twenty-six (326) feet more or less; thence northerly crossing said Saundersville Pike and continuing in the easterly line of said Clayville-Hopkins Mills road two thousand one hundred fifty (2,150) feet more or less to the southwesterly corner of land now or formerly of Edith Barden; thence easterly in the southerly line of said Barden land seven hundred sixteen (716) feet more or less; thence south seventy-seven (77) degrees, nine (9) minutes east, crossing land now or formerly of George A. Wetherbee, land now or formerly of the Barden Reservoir Company, and land now or formerly of Lucy A. Smith one thousand three hundred seventy-eight and five-tenths (1,378.5) feet; thence south twenty-nine (29) degrees, one (1) minute east, crossing said Lucy A. Smith land one thousand six hundred forty-three and two-tenths (1,643.2) feet more or less to a point in the northerly line of the said Saundersville Pike; thence south ten (10) degrees, forty-eight (48) minutes east, crossing said Saundersville Pike, land now or formerly of Peter King, Jr. and land now or formerly of Israel P. Round, two thousand eight hundred seventy-two and eight-tenths (2,872.8) feet more or less, to a point in the northwesterly line of land now or formerly of Rhoda E. Briggs; thence south fifty (50) degrees forty-nine (49) minutes east, crossing said Briggs land and land now or formerly of Eliza A. Barden and others one thousand four hundred seventy and six-tenths (1,470.6) feet more or less to the northwesterly corner of a cemetery; thence southerly in the westerly line of said cemetery one hundred twenty-seven (127) feet more or less; thence easterly in the southerly line of said cemetery ninety-nine (99) feet more or less to a point in the westerly line of the Hopkins Mills road, so-called; thence southerly and easterly in the westerly and southerly line of said road two thousand four hundred ninety-four (2,494) feet more or less; thence northerly crossing said Hopkins Mills road thirty-three (33) feet more or less to a point in the northerly line of said road at the southwesterly corner of other land now or formerly of Eliza A. Barden and others; thence easterly in the southerly line of said Barden land four hundred eighty-eight (488) feet more or less; thence northerly in the easterly line of said Barden land one hundred two (102) feet; thence north fifty-seven (57) degrees, fifty-one (51) minutes east, crossing land now or formerly of Frank and Kate Carr and land now or formerly of Sarah D. Wells,
80 one thousand two hundred thirteen and two tenths (1,213.2) feet, to a point in the center of Swamp Brook, so-called; thence south seventy-seven (77) degrees, nine (9) minutes east, crossing said Wells land, land now or formerly of the Scituate Light and Power

Company and land of the City of Providence, formerly of James R. Moore and wife, three thousand three hundred eighty-eight and seven-tenths (3,388.7) feet more or less to a point in the westerly line of land now or formerly of Robert and Mary Rhodes; thence southerly in line with said Rhodes land two hundred and three (203) feet more or less to a point in the westerly line of the Chopmist Hill road, so-called; thence easterly crossing said road thirty-three (33) feet more or less; thence northerly in the easterly line of said Chopmist Hill road two hundred ten (210) feet more or less, thence south seventy-seven (77) degrees, nine (9) minutes east, crossing land of the City of Providence, formerly of James R. Moore and wife, one thousand seven hundred fifteen and nine-tenths (1,715.9) feet more or less to a point in the westerly line of land now or formerly of Benjamin and Phebe B. Wood; thence southerly in the westerly line of said Wood land six hundred seventy-four (674) feet more or less; thence easterly in the southerly line of said Wood land one thousand four hundred ninety-one (1,491) feet more or less to the southwesterly corner of land now or formerly of Emanuel Hopkins and wife; thence easterly in the southerly line of said Hopkins land two hundred forty-four (244) feet; thence south thirty-two (32) degrees, forty-three (43) minutes east, crossing land now or formerly of Ora O. Hill, five hundred five and one-tenth (505.1) feet more or less to the westerly line of land now or formerly of Oscar R. Blackmar; thence southerly in the westerly line of said Blackmar land five hundred fifty-seven (557) feet more or less to a point in said westerly line six hundred eighty-seven (687) feet northerly from the northerly line of the Ashland-Ponaganset road, so-called, measured in the westerly line of said Blackmar land; thence south seventy-nine (79) degrees, forty-eight (48) minutes east, one hundred thirty-eight and eight-tenths (138.8) feet; thence north thirty-four (34) degrees, seventeen (17) minutes east, one hundred twelve and four-tenths (112.4) feet; thence south forty-six (46) degrees, fifty-nine (59) minutes east, two hundred twenty and eight-tenths (220.8) feet; thence south twenty-seven (27) degrees, seven (7) minutes west, three hundred eighteen and four-tenths (318.4) feet; thence south seventy (70) degrees, six (6) minutes east, one hundred thirty-one and three-tenths (131.3) feet; thence south thirty (30) degrees, twelve (12) minutes west, one hundred thirty-one and nine-tenths (131.9) feet; the last six (6) courses crossing said Oscar R. Blackmar land; thence south twenty-one (21) degrees, thirty-eight (38) minutes west, crossing said Blackmar land and the said Ashland-Ponaganset road to a point in the southerly line of said road two hundred seventy-six and one-tenth (276.1) feet more or less; thence easterly in the southerly line of said Ashland-Ponaganset road
90 one thousand six hundred thirty-one (1,631) feet more or less, to the northwesterly corner of land now or formerly of James A. Barden; thence southerly in the westerly line of said Barden land nine hundred (900) feet; thence south eighty (80) degrees, twenty-seven (27) minutes east, crossing said Barden land nine hundred fifty-five and seven tenths (955.7) feet more or less to the northwesterly corner of land now or formerly of Daniel H. Remington; thence

easterly in the southerly line of said James A. Barden land nine hundred twenty-two (922) feet more or less; thence easterly in line with land now or formerly of James A. Hopkins four hundred sixty (460) feet more or less; thence southerly in line with said Hopkins land three hundred thirty (330) feet more or less; thence easterly in line with said Hopkins land and land now or formerly of Auldis E. Barden, crossing the Wilbur Hollow road, so-called, and continuing in line with other land of said Barden, one thousand three hundred ninety-one (1,391) feet more or less; thence southerly in the westerly line of said Barden land two hundred fifty-three (253) feet more or less; thence westerly crossing said Wilbur Hollow road thirty (30) feet more or less; thence southerly in the westerly line of said road seven hundred twenty-two (722) feet more or less; thence easterly crossing said Wilbur Hollow road and continuing in the southerly line of land of said Auldis E. Barden four thousand one hundred six (4,106) feet more or less; thence northerly in the easterly line of said Barden land one thousand twenty (1,020) feet more or less to a point in the southerly line of said Ashland-Ponaganset road; thence easterly in the southerly line of said road one hundred eighty (180) feet more or less; thence north two (2) degrees, fifty-one (51) minutes east, crossing said Ashland-Ponaganset road and land of the City of Providence, formerly of Eloi La Cose and wife, four hundred forty-five (445) feet more or less; thence easterly in the southerly line of land now or formerly of Henry B. Salisbury ninety-three (93) feet more or less; thence southerly in line with said Salisbury land seventy-four (74) feet more or less; thence easterly in line with said Salisbury land thirty-three (33) feet more or less; thence northerly in the easterly line of said Salisbury land eight hundred eighty-one (881) feet more or less; thence easterly in line with land now or formerly of Cassius L. Ramsdell one hundred forty-one (141) feet more or less; thence northerly in line with said Ramsdell land two hundred sixteen (216) feet more or less; thence westerly in line with said Ramsdell land one hundred seventy-one (171) feet more or less; thence northerly in line with said Ramsdell land one thousand thirty-five (1,035) feet more or less; thence westerly in line with said Ramsdell land two hundred sixty-two (262) feet more or less, thence north two (2) degrees, fifty-one (51) minutes east, crossing land now or formerly of Fred Longbottom and others, land now or formerly of John R. Mathewson Heirs, land of the City of Providence, formerly of Charles Parker and wife, land of the City of
91 Providence, formerly of Fred A. and Byron W. Page, and land of the City of Providence, formerly of Andrew H. Andersonson, two thousand nine hundred thirty-five (2,935) feet more or less; thence easterly in the southerly line of land now or formerly of Alfred H. Lake six hundred thirty (630) feet more or less; thence northerly in the easterly line of said Lake land one thousand three hundred twenty (1,320) feet more or less; thence westerly in the northerly line of said Lake land two hundred sixty-four (264) feet more or less; thence north twenty-eight (28) degrees, twenty-six (26) minutes east, crossing said City of Providence land, formerly of Andrew H. Anderson, one thousand nine hundred seventy-seven

(1,977) feet more or less; thence southerly in line of land now or formerly of George F. Aldrich devisees, two hundred sixty-four (264) feet more or less; thence easterly in the southerly line of said Aldrich land eight hundred twenty-one (821) feet more or less; thence northerly in the easterly line of said Aldrich land one thousand two hundred thirty (1,230) feet more or less; thence westerly in line with said Aldrich land one hundred twenty-five (125) feet more or less; thence northerly in line with said Aldrich land two hundred nine (209) feet more or less; thence north twenty-eight (28) degrees, twenty-six (26) minutes east, crossing land of the City of Providence, formerly of Arthur W. Steere, and continuing to a point in the aforementioned Saundersville Pike six hundred sixty-nine and two-tenths (669.2) feet; thence north twelve (12) degrees, fifty-one (51) minutes east, crossing said pike and other land of the City of Providence, formerly of Arthur W. Steere, ninety-five (95) feet to a point in the southerly line of land now or formerly of Willis J. Boss; thence easterly in the southerly line of said Boss land, crossing said Saundersville Pike and continuing in said southerly line and crossing the Battey Meeting House road, so-called, nine hundred ninety-eight (998) feet more or less; thence northerly in the easterly line of said Battey Meeting House road, crossing said Saundersville Pike and continuing in the easterly line of said Battey Meeting House road one hundred eighty-nine (189) feet more or less; thence easterly in the southerly line of land now or formerly of said Willis J. Boss seven hundred eighteen (718) feet more or less; thence northerly in the easterly line of said Boss land one thousand three hundred eighteen (1,318) feet more or less; thence southerly in the westerly line of land now or formerly of James M. Edwards four hundred ninety-three (493) feet more or less; thence easterly in the southerly line of said Edwards land five hundred eighty-three (583) feet more or less; thence northerly in the easterly line of said Edwards land, land now or formerly of George W. Paine 3rd Heirs, land now or formerly of John W. Coggeshall, land now or formerly of Philip and Almira Shippee, crossing the aforementioned Danielson Pike, three thousand three hundred fourteen (3,314) feet more or less to a point in the northerly line of said Danielson Pike; thence westerly in the northerly line of said Danielson Pike one hundred nine (109) feet more or less to the point of
92 beginning;

and as said boundary line, as the "Boundary Line of the Main Taking," is shown in character on that certain accompanying plat, consisting of a title sheet and twenty-one additional sheets numbered progressively A-1 to A-21 both inclusive and said title sheet being marked as follows: "City of Providence Water Supply Board. Plat of Lands in the Towns of Scituate, Foster and Johnston Condemned by the City of Providence for Water Supply Purposes Under Chapter 1278 of the Public Laws of 1915. Prepared by the Water Supply Board, September 30, 1916. B. Thomas Potter, William A. Schofield, Henry A. Grimwood, William P. Vaughn, John Kelso, Joseph H. Gainer, Walter F. Slade, Water Supply Board of the City of Providence. Frank E. Winsor, Chief Engineer.

"This Plat consists of this title sheet and 21 sheets numbered A-1 to A-21 inclusive. An index sheet is attached hereto for convenient reference only.

"Plat consisting of a title sheet and 21 additional sheets, (numbered progressively A-1 to A-21 inclusive and all dated September 30, 1916), of Lands in the Towns of Scituate, Foster and Johnston, Condemned by the City of Providence for Water Supply Purposes, &c., under the provisions of Chapter 1278 of the Public Laws, entitled 'An Act to Furnish the City of Providence with a Supply of Pure Water,' passed by the General Assembly of the State of Rhode Island at its January Session, A. D. 1915, and by and in accordance with the resolution of the City Council of said City of Providence numbered 397, approved December fourth, 1916, and entitled 'Resolution of the City Council Taking Certain Lands and Waters for Water Supply Purposes.' Joseph H. Gainer, Mayor of the City of Providence,"

and said lands and parcels of land being the same as shown and delineated on said plat within said boundary line, express reference to said plat being hereby made for a more complete and several description of said lands and parcels of land; and including in this description and taking any and all real estate within said area, bounded by said line, acquired or used for railroad, highway, cemetery or other public or quasi public purpose or pur-
93 poses, and whether acquired by, or held by title derived under, eminent domain or otherwise, except as hereinafter provided; but excluding and excepting from this description and this taking the street railroad easement or right of railroad location of the Providence and Danielson Railway Company, its successors and assigns, in said Danielson Pike and in the lands where that part of the present railroad is located which part extends from the junction of the new railroad location shown on said plat with the present railroad location northerly of said Rockland-Clayville road and westerly of said Ponaganset-Rockland road, generally westerly and then generally southwesterly to the point where it finally leaves said area at the Rockland-Clayville road at or near Pleasant lane as shown on said plat; and excluding and excepting from this description and this taking all lands and parcels of land included within the fence lines, as existing on the date of the passage of said Act, of the Glenford Cemetery situated in North Scituate south of said Main street, said lands and parcels of land being the same as a whole shown on said plat and marked thereon "Glenford Cemetery;" and this taking is made subject to that certain lease from the City of Providence to the North Scituate Cotton Mills of certain real estate within said area for the term of two years from October 28, 1916, which lease is dated October 28, 1916, and subject to that certain agreement between the City of Providence and the Ashland Company as to the use of certain real estate and property within said area for the period of one year from the date of the delivery of the deed specified therein which date of delivery was April 20, 1916, and which agreement is dated February 23, 1916.

And said City of Providence takes all said lands and parcels of

land, which are hereinbefore set forth as included in the taking and are described in the next preceding paragraph hereof numbered "First," in fee simple, except as follows:

1. Said City of Providence does not take the public highway easement in any part of the following described roads or parts thereof: The Saundersville road from the Battey meeting house road westerly; the Ponaganset-Ashland road westerly of its junction shown on said plat with the causeway road crossing said stor-
94 age reservoir at or near Ashland, which causeway road is to be laid out and constructed pursuant to the requirement of Section 8 of said Act; the Chopmist Hill road and the Hopkins Mills road being two of the three roads from the Ponaganset-Ashland road to the Saundersville road and to the Danielson Pike specified in said Act; the road from Ponaganset running southerly of the Barden reservoir; the road from said Ponaganset-Ashland road through Rockland to Clayville and leading to Foster Centre; the road from Clayville over Fields hill to the new road connecting the northerly end of the Tunk hill road with said Fields hill road, said new road running from a point on said Plainfield pike at or easterly of the Tunk hill road northerly to a point on the Fields hill road near the Dark bridge road and to be laid out and constructed pursuant to the requirement of Section 8 of said Act; the Tunk hill road from the Plainfield pike to the new road leading to the Kent-Coventry road, said new road running from the junction of the Kent-Coventry road with another new road (designated in said Act as the new extension of the Bald hill road) at a point westerly of the junction of the Kent-Coventry road and the Tunk hill road in a northerly and northwesterly direction to said Tunk hill road and to be laid out and constructed pursuant to the requirement of Section 8 of said Act; the Kent-Coventry road from the new extension of the Bald hill road southwesterly, said new extension running from a point on the Bald hill-Kent road easterly or northeasterly of Kent westerly and along Burnt hill to a point on the Kent-Coventry road westerly of its junction with the Tunk hill road and to be laid out and constructed pursuant to the requirement of Section 8 of said Act; and all roads north of said Danielson Pike, except the short piece of road from the S. M. Olney heirs farm westerly to the school estate. But said City of Providence does take the underlying fee in all said roads and parts of roads described in this paragraph, which are, or to the extent that they are, included within said area, subject to the public highway easement therein, and takes said short piece of road from the S. M. Olney heirs farm westerly to the school estate in fee simple.

2. Said City of Providence does not take any public high-
95 way easement in any part of the state road through North Scituate known as the Danielson Pike; nor does it take the public highway easement in any part of the road known as the Hartford Pike. Nor does it take any public highway easement in any part of the state road known as the Plainfield Pike, except it does take the public highway easement in all that part thereof which will be flowed by said storage reservoir or be obstructed by works pertain-

ing thereto or constructed under the authority of said Act and which is described as follows: All that portion of the Plainfield Pike lying between the junction of said Plainfield Pike and the Tunk hill road, so-called, and the junction of said Plainfield Pike and the new road which is to be laid out and constructed pursuant to the requirements of Section 8 of said Act in lieu of a part of said Plainfield Pike, and connecting with said Plainfield pike near the Ashland road, so-called. Nor does it take any public highway easement in any portion of the Bald hill-Kent road, or any highway in extension thereof running westerly or southwesterly, except it does take the public highway easement in all those parts thereof which will be flowed by said storage reservoir, or be obstructed by the works pertaining thereto or constructed under the authority of said Act and which are described as follows: All that portion of the Bald hill-Kent road lying westerly of the point where the new extension of said Bald hill-Kent road, to be laid out and constructed pursuant to the requirements of Section 8 of said Act, leaves said Bald hill-Kent road; and all that portion of the Kent-Coventry road from the westerly end of said Bald hill-Kent road to the connection of said new extension of said Bald hill-Kent road with said Kent-Coventry road, which connection is westerly of the Tunk hill road; and all those portions of the Kent-Hope west road, and the Burnt hill road which lie within said boundary line. But said City of Providence does take the underlying fee in all said roads and parts of roads described in this paragraph which are, or to the extent that they are, included within said area and in which the public highway easement is not taken, subject to the public highway easement therein.

96 3. And said City of Providence takes all the lands within said area which are included in the roadway, as existing on the date of the passage of said Act, from said Main street in North Scituate to said Glenford cemetery, expressly subject to any and all public and private rights of way for travel on foot or by vehicles over the same to and from said cemetery.

4. Said City of Providence, in taking said lands and parcels of land hereinbefore set forth as included in the taking and described in paragraph numbered "First" herein, takes any such lands or parts thereof, in which there is a burial ground, cemetery, graves or places of human burial, and which are to be flowed by water or are located so near to said storage reservoir or any such waterway as to be liable to pollute or reduce the quality or value of any such waters as a potable water supply, subject to the requirement of said Act that said City shall remove the remains found in any such burial places and subject to the right of removal of the gravestones, monuments and markers of such graves as provided in Section 13 of said Act.

5. Said City of Providence, in taking said lands and parcels of land hereinbefore set forth as included in the taking and described in the paragraph numbered "First" herein, takes any such lands or parts thereof, in which there is a burial ground, cemetery, graves or

places of human burial, and which are not to be flowed by water or are not located so near to said reservoir or any such waterway as to be liable to pollute or reduce the quality or value of any such waters as a potable water supply, subject to the reservation in favor of the owner or owners of such burial ground, cemetery, graves or places of human burial, their heirs and assigns, and subject to any equitable right, that the remains and gravestones, monuments and markers of graves now therein or thereon may remain therein or thereon and shall not be disinterred or removed by said City, but there shall be no further burials made therein.

6. Said City of Providence, in taking said lands and parcels of land hereinbefore set forth as included in the taking and described in the paragraph numbered "First" herein, does not take any waters now or hereafter in, on or within the same, or any rights in or to any such waters, or any right to hold, appropriate or divert any such waters, for said water supply to any greater degree or extent than hereinafter provided in the express taking of waters, and the taking of said lands and parcels of land, in respect to any waters now or hereafter in, on or within the same, is hereby made subject to any and all the conditions, limitations, restrictions, reservations, obligations and requirements of said Act pertaining to the taking of the waters of said branch of the Pawtuxet river and its tributaries.

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And said City of Providence takes all said lands, and estates, easements, rights and interests in lands, which are within said area and are hereinbefore described as taken, for the following specified purposes: for the location, construction, maintenance and operation of said storage reservoir (the main dam of said reservoir being located within said area near and south of the village of Kent in the Town of Scituate and as approximately shown on said plat, and the location of the flow line of said reservoir being within said area and as approximately shown in character on said plat), and any dams, sluices, culverts, water and land ways, and works connected therewith or incidental thereto, and for filtration and other works for treating said water supply, and for the location, construction, maintenance and operation of an aqueduct section from said storage reservoir to the easterly line of said area, and any of the same not required or used for said reservoir and works for protecting and preserving the waters in said river branch and its tributaries flowing thereto from pollution and from the deposit therein of any matters which would reduce the quality or value of any such waters as a potable water supply, and for the water supply purposes specified in said Act, and for locating therein and thereon the new public highways or the parts thereof within said area shown on said plat and required by said Act to be laid out and constructed by said City of Providence, and relative to the new public highway from the Danielson Pike to Rockland required by said Act to be laid out and constructed by said City, for furnishing in the part of the same within said area the Providence and Danielson Railway Company,

its successors and assigns, with the new location and street railway easement therein for a single track railroad with convenient turnouts specified in said Act, and for furnishing said Company,
98 its successors and assigns, with the new location and railroad easement specified in said Act in and across said Ponaganset-Rockland road and over land adjoining thereto and westerly thereof to the junction with the present track and location of said railroad as shown on said plat, and for said City's permitting said Providence and Danielson Railway Company, its successors and assigns to construct and maintain a high tension electric transmission line over or under any lands and waters within said area taken by said City as provided in said Act, and for said City's permitting any telegraph, telephone, electric light or electric power transmission company at any time existing under the laws of the State of Rhode Island or of the United States to construct and maintain its lines in, over or under any lands and waters within said area taken by said City as provided in said Act, and for carrying out the purposes, directions and requirements of said Act.

Second. All the lands and parcels of land, with any and all the improvements thereon, situated in said Town of Scituate and comprising or included within that certain strip of land shown on said plat, sheet A-10, and described as follows:

Beginning at a point in the southerly line of the Danielson Pike, so-called, said point being distant easterly six hundred seventy-eight (678) feet from a point in the southerly line of said pike in range with the westerly line of the Elmdale Cross Road, so-called, and four thousand one hundred thirty (4,130) feet more or less, measured along the southerly side of said pike, from Card's Corner at North Scituate; thence in a westerly direction with the arc of a curve to the left, radius six hundred ninety-one and eight-tenths (691.8) feet crossing land now or formerly of Henrietta and Cora M. Angell nine hundred ninety-eight and seven-tenths (998.7) feet; thence south thirty-five (35) degrees, thirteen (13) minutes west, with a line tangent to said curve crossing said Angell land three hundred and sixty-five and seven-tenths (365.7) feet; thence with the arc of a curve to the right, radius two thousand eight hundred eighty-nine and nine-tenths (2,889.9) feet crossing said Angell land three hundred twenty-four and five-tenths (324.5) feet; thence south forty-one (41) degrees, thirty-nine (39) minutes west, crossing said Angell land five hundred fifty-one and one-tenth (551.1) feet; thence with the arc of a curve to the right, radius one thousand one hundred seventy-one and three-tenths (1,171.3) feet, crossing said Angell land and land now or formerly of Henry A. Burlingame, one thousand thirty-six and one-tenth (1,036.1) feet; thence north
99 eighty-seven (87) degrees, forty (40) minutes west, crossing said Burlingame land eight hundred eighty-two and seven-tenths (882.7) feet; thence with the arc of a curve to the left, radius six hundred ninety-one and eight-tenths (691.8) feet, crossing said Burlingame land, the Trimtown road, so-called, and land now or formerly of John Randall, nine hundred eighteen

(918) feet; thence south sixteen (16) degrees, eighteen (18) minutes west, crossing said Randall land two hundred forty-seven (247) feet; thence with the arc of a curve to the right, radius seven hundred forty-one and eight-tenths (741.8) feet, crossing said Randall land and land now or formerly of Elizabeth A. Burnside two hundred sixty-five and eight-tenths (265.8) feet; thence south thirty-six (36) degrees, fifty (50) minutes west, crossing said Burnside land and land now or formerly of Henry T. Phillips, one thousand three hundred eleven and one-tenth (1,311.1) feet; thence with the arc of a curve to the right, radius one thousand one hundred seventy-one and three-tenths (1,171.3) feet, crossing land of said Henry T. Phillips four hundred thirty-one and seven-tenths (431.7) feet; thence south fifty-seven (57) degrees, fifty-seven (57) minutes west, crossing said Phillips land, the Saundersville Pike, so-called, and land now or formerly of Charles F. Hopkins, one thousand four hundred one and seven-tenths (1,401.7) feet; thence with the arc of a curve to the right, radius one thousand one hundred seventy-one and three-tenths (1,171.3) feet, crossing said Hopkins land and other land now or formerly of Henry T. Phillips, four hundred eighty and one-tenth (480.1) feet; thence south eighty-one (81) degrees, twenty-six (26) minutes west, crossing said Phillips land and land now or formerly of Martin Tierney, eight hundred fifty-six and one-tenth (856.1) feet; thence with the arc of a curve to the left, radius eleven hundred twenty-one and three-tenths (1,121.3) feet, crossing said Tierney land, two hundred twelve and five-tenths (212.5) feet; thence south seventy (70) degrees, thirty-four (34) minutes west, crossing said Tierney land, land now or formerly of Annie A. Phillips, the Westcott District road, so-called, and other land now or formerly of Annie A. Phillips, two thousand six hundred ninety-three (2,693) feet; thence with the arc of a curve to the left, radius one thousand one hundred twenty-one and three-tenths (1,121.3) feet, crossing said Phillips land three hundred twelve (312) feet; thence south fifty-four (54) degrees, thirty-eight (38) minutes west, crossing said Phillips land, land now or formerly of R. Ann Yeaw, land now or formerly of Emma M. Knowlton and land now or formerly of Benjamin and Phebe B. Wood, two thousand six hundred sixteen and three-tenths (2,616.3) feet; thence with the arc of a curve to the left, radius two thousand eight hundred thirty-nine and nine-tenths (2,839.9) feet, crossing said Benjamin and Phebe B. Wood land one thousand three hundred eleven and nine-tenths (1,311.9) feet; thence south twenty-eight (28) degrees, ten (10) minutes west, crossing said Benjamin and Phebe B. Wood land and land of the City of Providence, formerly of James R. Moore and wife, seven hundred eighty
100 (780) feet, to a point in the boundary line shown on said plat and described in the paragraph numbered "First" herein, and all the aforegoing courses and curves constituting as a whole the southerly or southeasterly line of said strip; thence westerly in said boundary line shown on said plat and described in said paragraph "First" herein fifty-one and eight-tenths (51.8) feet to a point in the northerly or northwesterly side of said strip; thence in

a general northeasterly direction in line parallel with said southerly or southeasterly side of said strip and fifty (50) feet therefrom, crossing lands of said City of Providence, formerly of James R. Moore and wife, lands now or formerly of said Benjamin and Phebe B. Wood, of said Emma M. Knowlton, of said R. Ann Yeaw and of said Annie A. Phillips, the Westcott District road, other land now or formerly of said Annie A. Phillips, lands now or formerly of said Martin Tierney, of said Henry T. Phillips and of said Charles F. Hopkins, the Saundersville Pike, other land now or formerly of said Henry T. Phillips, lands now or formerly of said Elizabeth A. Burnside and of said John Randall, the Trimtown road, and lands now or formerly of said Henry A. Burlingame, of Everett B. Dexter and of said Henrietta and Cora M. Angell to a point fifty (50) feet northerly of the westerly end of the curve first described herein in range with the radial line of said curve; thence easterly with the arc of a curve, fifty (50) feet northerly from and parallel with the arc of said curve first described herein crossing said Angell land three hundred ninety-six (396) feet more or less to a point in range with the westerly line of the aforementioned Elmdale Cross Road; thence northerly in range with said westerly line of said Elmdale Cross Road one hundred fifty-four (154) feet more or less to a point in the southerly line of said Danielson Pike; thence easterly with the southerly line of said Danielson Pike six hundred seventy-eight (678) feet to the point of beginning;

and said strip of land is shown and delineated on said plat, sheet numbered A-10, and said lands and parcels of land are the same as shown and delineated thereon within said strip, express reference to said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes all said lands and parcels of land which are within said strip and are described in the next preceding paragraph hereof numbered "Second" in fee simple for public highway uses and purposes and for furnishing the Providence and Danielson Railway Company, its successors and assigns, with the new location and street railway easement therein for a single track railroad with convenient turnouts, as specified in said Act, but subject to the public highway easement in all places where
101 said strip crosses or intersects any and all public highways or roads, or parts thereof, which are not permitted to be taken under said Act.

Third. All the lands and parcels of land, with any and all the improvements thereon, situated in said Town of Scituate and comprising or included within those two certain strips of land shown on said plat, sheet A-10, and described as follows: Said two strips of land immediately adjoin and bound on said single strip of land described in paragraph numbered "Second" herein, throughout the length of said single strip, one on the northwesterly side and the other on the southeasterly side thereof, and each holding the uniform width of twenty-five (25) feet extends from said Danielson

Pike to said boundary line shown on said plat and described in paragraph numbered "First" herein, excepting that the said twenty-five (25) foot strip on the northwesterly side of said strip of land described in said paragraph numbered "Second" is bounded easterly by a line in range with the westerly line of the said Elmdale Cross Road; and also excepting that where said northwesterly strip of land would cross the land now or formerly of William M. Harris, situated between the said Saundersville Pike and said Westcott District road, said strip is less than twenty-five feet in width and is there bounded northerly and westerly by the southerly and easterly lines of said Harris land, and said Harris land is wholly excepted from this taking; and excepting that where said southeasterly strip of land would cross the land now or formerly of Isaac Burgess, situated west of the Westcott District road, said strip is less than twenty-five feet in width and is there bounded easterly and southerly by the westerly and northerly lines of said Burgess land, and said Burgess land is wholly excepted from this taking. Said two strips of land are shown and delineated on said sheet A-10 of said plat, and said lands and parcels of land are the same as shown and delineated thereon within said strips, express reference to said sheet A-10 of said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes in all said lands and parcels of land, which are within said two strips and are described in
102 the next preceding paragraph hereof numbered "Third," only an easement, to be held as appurtenant to said single strip of land described in said paragraph numbered "Second" and taken for public highway uses and purposes, for slopes and lateral support of the public highway required by said Act to be constructed by said City in and over said single strip of land, but subject to the public highway easement in all places where said two strips, or either thereof, cross or intersect any and all public highways or roads, or parts thereof, which are not permitted to be taken under said Act.

Fourth. All the lands and parcels of land, with any and all the improvements thereon, situated in said Town of Scituate and comprising or included within that certain strip of land shown on said plat, sheet A-21, and described as follows:

Beginning at a point in the southerly line of the Ponaganset-Ashland road, so-called, at the northwesterly corner of land now or formerly of John Ramsdell, said point being at an angle in the boundary line shown on said plat and described in paragraph numbered "First" herein; thence southerly in the boundary line between land of said John Ramsdell and land now or formerly of Auldis E. Barden eighteen (18) feet, said line being coincident with said boundary line; thence north eighty-four (84) degrees, twenty (20) minutes west, crossing said Auldis E. Barden land, two hundred fifteen (215) feet; thence westerly with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said Barden land, two hundred twelve and nine-tenths (212.9) feet; thence north sixty-four (64) degrees, eight (8) min-

utes west, crossing said Barden land, three hundred twenty-eight and one-tenth (328.1) feet; thence westerly with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said Barden land, one hundred forty-six and seven-tenths (146.7) feet; thence north fifty (50) degrees, thirteen (13) minutes west, crossing said Barden land, three hundred fifty-four and four-tenths (354.4) feet; thence westerly with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said Barden land two hundred seventy-four and four-tenths (274.4) feet; thence north seventy-nine (79) degrees, eight (8) minutes west, crossing said Barden land, six hundred fifty-eight and one-tenth (658.1) feet to a point in the southerly line of said Ponaganset-Ashland road; thence westerly in the southerly line of said Ponaganset-Ashland road, two thousand thirteen (2,013) feet more or less to the intersection of the southerly line of said Ponaganset-Ashland road with the easterly line of the Wilbur Hollow road, so-called; thence westerly crossing said Wilbur Hollow road, eighty (80) feet more or less to a point at the intersection of
103 the southerly line of said Ponaganset-Ashland road with the westerly line of said Wilbur Hollow road; thence westerly in the southerly line of said Ponaganset-Ashland road, seven hundred (700) feet more or less; thence north sixty-one (61) degrees, twenty-seven (27) minutes west, crossing land now or formerly of James A. Hopkins, three hundred eighty-nine and seven-tenths (389.7) feet; thence westerly with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said Hopkins land, two hundred forty and two-tenths (240.2) feet; thence north eighty-six (86) degrees, forty-six (46) minutes west, crossing said Hopkins land and land now or formerly of James A. Barden, eight hundred eight and seven-tenths (808.7) feet; thence westerly with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said James A. Barden land, one hundred sixty-seven and four-tenths (167.4) feet; thence north seventy (70) degrees fifty-three (53) minutes west, crossing said James A. Barden land, one hundred ninety-four and six-tenths (194.6) feet to a point in the southerly line of the aforementioned Ponaganset-Ashland road; thence westerly in the southerly line of said Ponaganset-Ashland road, eight hundred fifty-five (855) feet more or less to a point at the northeasterly corner of land now or formerly of William A. Brown, said point being at an angle in said boundary line described in paragraph numbered "First" herein; thence westerly in the southerly line of said Ponaganset-Ashland road, one thousand six hundred thirty-one (1,631) feet more or less, said last described line being coincident with said boundary line; thence northerly crossing said Ponaganset-Ashland road in a line coincident with said boundary line forty (40) feet more or less to a point in the northerly line of said Ponaganset-Ashland road; thence easterly in the northerly line of said Ponaganset-Ashland road, nine hundred ten (910) feet more or less; thence easterly with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing land now or formerly of

Oscar R. Blackmar, two hundred fifty-one and eight-tenths (251.8) feet; thence easterly with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet crossing said Blackmar land and other land now or formerly of said James A. Barden, five hundred twenty-six and one-tenth (526.1) feet; thence south eighty-two (82) degrees, forty-six (46) minutes east, crossing said James A. Barden land, eight hundred nineteen and eight-tenths (819.8) feet to a point in the westerly line of the Westcott District road, so-called; thence southeasterly crossing said Westcott District road sixty-six (66) feet more or less to a point in the northerly line of said Ponaganset-A-hland road; thence easterly in the northerly line of said Ponaganset-Ashland road, four hundred fifty (450) feet more or less; thence south eighty-six (86) degrees, forty-six (46) minutes east, crossing other land now or formerly of said James A. Barden, four hundred ninety-five (495) feet to a point in the northerly line of said Ponaganset-Ashland road at the
104 southwesterly corner of land now or formerly of Howard W. Barden; thence easterly in the northerly line of said Ponaganset-Ashland road, five hundred eighty-five (585) feet more or less to the southeasterly corner of said Howard W. Barden land; thence south sixty-one (61) degrees, twenty-seven (27) minutes east, crossing land now or formerly of Hellen F. Pritz, sixty (60) feet; thence easterly with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said Hellen F. Pritz land, two hundred twenty-four and four-tenths (224.4) feet; thence south forty (40) degrees, nine (9) minutes east, crossing said Hellen F. Pritz land, three hundred ten and nine-tenths (310.9) feet; thence easterly with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said Hellen F. Pritz land and land now or formerly of Edward F. Page, three hundred twenty-two and three-tenths (322.3) feet; thence south seventy-four (74) degrees, eight (8) minutes east, crossing said Edward F. Page land, three hundred twelve and one-tenth (312.1) feet; thence easterly with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing other land now or formerly of said Auldis E. Barden, ninety-eight and seven-tenths (98.7) feet; thence south eighty-four (84) degrees, thirty-two (32) minutes east, crossing said Auldis E. Barden land, one thousand two hundred seventy-six (1,276) feet; thence easterly with the arc of a curve to the right, radius five thousand seven hundred fifty-nine and six-tenths (5,759.6) feet crossing said Auldis E. Barden land and land now or formerly of Henry B. Salisbury, four hundred forty-six and seven-tenths (446.7) feet to a point in the northerly line of said Ponaganset-Ashland road; thence easterly in the northerly line of said Ponaganset-Ashland road, nine hundred thirty (930) feet more or less to a point at the intersection of the northerly line of said Ponaganset-Ashland road with the westerly line of the Trimtown road, so-called; thence easterly crossing said Trimtown road, one hundred (100) feet to the said northerly line of said Ponaganset-Ashland road; thence easterly in the northerly line of said Ponaganset-Ashland road, seven hundred ninety-one (791) feet more

or less to the southeasterly corner of other land now or formerly of said Henry B. Salisbury; thence south eighty-four (84) degrees, twenty (20) minutes east, crossing land of the City of Providence, formerly of Eloi and Huldah Lacoste, one hundred sixty-nine (169) feet; thence easterly with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said City of Providence land, one hundred sixty-two and six-tenths (162.6) feet to a point in said boundary line described in said paragraph numbered "First" herein; thence south two (2) degrees, fifty-one (51) minutes west, in a line coincident with said boundary line and crossing said Ponaganset-Ashland road ninety-four (94) feet more or less to a point in the southerly line of said Ponaganset-Ashland road; thence westerly in the southerly line of said Ponaganset-
105 Ashland road and coincident with said boundary line, one hundred eighty (180) feet more or less to the point of beginning;

and said strip of land is shown and delineated on said plat, sheet numbered A-21, and said lands and parcels of land are the same as shown and delineated thereon within said strip, express reference to said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes in all said lands and parcels of land which are within said strip and are described in the next preceding paragraph hereof numbered "Fourth" only an easement for public highway uses and purposes.

Fifth. All the lands and parcels of land, with any and all the improvements thereon, situated in said Town of Foster and comprising or included within that certain strip of land shown on said plat, sheets A-17 and A-19 and described as follows:

Beginning at the intersection of the southerly line of the Clayville-Foster Center road, so-called, with the easterly line of the Isthmus road, so-called; thence westerly and northwesterly along said southerly line two hundred forty-three (243) feet more or less; thence north eighty-three (83) degrees, thirty-six (36) minutes west, over part of the location of the Providence and Danielson Railway Company, one hundred eighty-six (186) feet; thence with the arc of a curve to the left, radius one thousand four hundred sixteen and seven-tenths (1,416.7) feet, over part of said Railway Company's location, three hundred forty-five and three-tenths (345.3) feet; thence with the arc of a curve to the right, radius two thousand one hundred sixty-four and eight-tenths (2,164.8) feet, over part of said Railway Company's location two hundred ninety-five (295) feet to the southerly or southeasterly line of said Clayville-Foster Center road; thence in a westerly direction along said southerly line of said road, four hundred thirty-one (431) feet; thence with the arc of a curve to the right, radius two thousand one hundred sixty-four and eight-tenths (2,164.8) feet, over part of said Railway Company's location, forty-three (43) feet; thence north seventy-seven (77) degrees, thirty-eight (38) minutes west, over part of said Railway Company's

location, two hundred sixty-one and seven-tenths (261.7) feet; thence with an angle of ninety (90) degrees to the left, over part of said Railway Company's location, fourteen (14) feet; thence with the arc of a curve to the left, radius seven hundred eighty-nine (789) feet, over part of said Railway Company's location and land now or formerly of Orrin W. Phillips Estate, four hundred forty-five
106 and nine-tenths (445.9) feet; thence southerly on a radial line to said arc crossing said Phillips land, ten (10) feet; thence southwesterly with the arc of a curve to the left, radius seven hundred seventy-nine (779) feet, crossing said Phillips land, three hundred thirty-four and two-tenths (334.2) feet; thence northwesterly on a radial line to said arc crossing said Phillips land, ten (10) feet; thence southwesterly with the arc of a curve to the left, radius seven hundred eighty-nine (789) feet, crossing said Phillips land, fifty-nine and six-tenths (59.6) feet; thence south forty-one (41) degrees, four (4) minutes west, crossing said Phillips land, five hundred seventeen and two-tenths (517.2) feet; thence with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said Phillips land, one hundred thirty and two-tenths (130.2) feet to the southeasterly line of the Briggs road, so-called; thence southwesterly and westerly along the southeasterly and southerly line of said road, forty (40) feet; thence westerly with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing land now or formerly of William H. Williams, three hundred forty-four and six-tenths (344.6) feet; thence north eighty-nine (89) degrees, thirty-four (34) minutes west, crossing said Williams land and other land of said Orrin W. Phillips Estate, four hundred forty-six and two-tenths (446.2) feet; thence with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said Phillips land, one hundred fifty-seven and four-tenths (157.4) feet; thence with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said Phillips land, three hundred fifty-nine and eight-tenths (359.8) feet; thence south sixty-seven (67) degrees, twenty-four (24) minutes west, crossing said Phillips land and land now or formerly of Pardon P. Pray and wife, one thousand seven hundred fifty-six and eight-tenths (1,756.8) feet to land now or formerly of Nathan M. Wright; thence with the arc of a curve to the left, radius two thousand eight hundred thirty-four and nine-tenths (2,834.9) feet crossing said land of Nathan M. Wright, one hundred sixty-three (163) feet to the southerly line of said Briggs road; thence westerly along said southerly line of said Briggs road, two hundred eight (208) feet; thence south fifty-nine (59) degrees, fifty-three (53) minutes west, crossing land of said Nathan M. Wright, five hundred ninety-one and two-tenths (591.2) feet; thence with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said Wright land, three hundred seventy-six and six-tenths (376.6) feet to the easterly line of said Briggs road; thence southerly along the easterly line of said Briggs road, two thousand seventy-five (2,075) feet to land now or formerly of Byron M. Lewis; thence with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, cross-

ing said land of Byron M. Lewis one hundred forty-three (143) feet; thence south forty-one (41) degrees, thirty-three (33)
107 minutes west, crossing said Lewis land and land now or formerly of James L. Phillips, one thousand twenty and four-tenths (1,020.4) feet; thence with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet crossing said Phillips land, land now or formerly of Walter Dunham and said Phillips land, three hundred sixty-two and three-tenth (362.3) feet; thence south three (3) degrees, twenty-two (22) minutes west, crossing said Phillips land seven hundred forty-two and four-tenths (742.4) feet; thence with the arc of a curve to the left, radius nine hundred twenty-five and four-tenths (925.4) feet, crossing said Phillips land, three hundred sixteen and six-tenths (316.6) feet; thence south sixteen (16) degrees, fifteen (15) minutes east, crossing said Phillips land, two hundred forty-five (245) feet; thence with the arc of a curve to the right, radius nine hundred eighty-five and four-tenths (985.4) feet, crossing said Phillips land, two hundred fifty-three and nine-tenths (253.9) feet; thence south one (1) degree, thirty (30) minutes east, crossing said Phillips land, land now or formerly of Warren W. Bennett, the Howard Hill road, so-called, and other land now or formerly of Warren W. Bennet, two thousand eight hundred sixty-one and one-tenth (2,861.1) feet; thence with the arc of a curve to the left, radius nine hundred twenty-five and four-tenths (925.4) feet crossing said Warren W. Bennett land, one hundred eighty-seven and two-tenths (187.2) feet; thence south thirteen (13) degrees, six (6) minutes east, crossing said Bennett land two hundred fifty-seven and six-tenths (257.6) feet; thence with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said Warren W. Bennett land one hundred seventy-eight and one-tenth (178.1) feet; thence south three (3) degrees, forty-eight (48) minutes west, crossing said Bennett land seven hundred seventy-five and eight-tenths (775.8) feet; thence with the arc of a curve to the left, radius one hundred sixty-three and two-tenths (163.2) feet, crossing said Bennett land three hundred fifteen and nine-tenths (315.9) feet; thence north seventy-two (72) degrees, fifty-two (52) minutes east, crossing said Bennett land, thirty-five (35) feet more or less to the northerly line of the Plainfield Pike; thence westerly with said northerly line of said Plainfield Pike, five hundred eighty (580) feet, more or less; thence north forty (40) degrees, fifty-three (53) minutes east, crossing land now or formerly of James E. Cahoone and wife, one hundred ten (110) feet, more or less; thence with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said Cahoone land and said Warren W. Bennett land, three hundred fifty-one and nine-tenths (351.9) feet; thence north three (3) degrees, forty-eight (48) minutes east, crossing said Warren W. Bennett land, eight hundred eleven (811) feet; thence on a line sixty (60) feet westerly from and parallel to the curves and tangents hereinbefore described, crossing said Bennett land, the Howard Hill road, said Bennett land, land now or formerly of Henry K.
108 Luther, said James L. Phillips land and said Walter Dunham land to the southeasterly line of the hereinbefore mentioned

Briggs road at a point on said southeasterly line of said road distant westerly along said line one hundred one (101) feet more or less from the northeasterly corner of said Walter Dunham land; thence crossing said Briggs road at right angles with said southeasterly line about thirty-three (33) feet to the northwesterly line of said road; thence northeasterly along said northwesterly line of said Briggs road, one thousand one hundred seventy-five (1,175) feet more or less; thence with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing land now or formerly of David S. Morrell and wife, two hundred two and five-tenths (202.5) feet; thence north twenty (20) degrees, twelve (12) minutes east, crossing said Morrell land, other land now or formerly of Nathan M. Wright and land now or formerly of Brayton A. Round, two thousand thirty-three and six-tenths (2,033.6) feet; thence with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said Brayton A. Round land one hundred ninety-five (195) feet to a point on the northerly line of said Briggs road; thence easterly along said northerly line of said road, seventy-six (76) feet; thence with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing land now or formerly of Alfreda E. Hill and others, one hundred fifty-one and one-tenth (151.1) feet; thence north fifty-nine (59) degrees, fifty-three (53) minutes east, crossing said Hill land, five hundred ninety-one and two-tenths (591.2) feet; thence with the arc of a curve to the right, radius two thousand eight hundred ninety-four and nine-tenths (2,894.9) feet, crossing said Hill land and land now or formerly of Job Randall three hundred seventy-nine and eight-tenths (379.8) feet; thence north seventy (70) degrees, nine (9) minutes east, crossing said Randall land and other land now or formerly of Alfreda E. Hill Estate, one thousand seven hundred forty-four (1,744) feet more or less to a point on the northerly line of said Briggs road; thence easterly along said northerly line of said road two hundred ninety-eight (298) feet, more or less; thence with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing land now or formerly of Pardon P. Pray and wife one hundred ten (110) feet, more or less; thence with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said Pray land, one hundred forty-one and four-tenths (141.4) feet; thence south eighty-nine (89) degrees, thirty-four (34) minutes east, crossing said Pray land three hundred seventy (370) feet to the northerly line of said Briggs road; thence easterly with the said northerly line of said road three hundred thirty-two (332) feet more or less; thence northwesterly with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said Pray land two hundred eight (208) feet more or less; thence north forty-one (41) degrees, four (4) minutes east, crossing said Pray land and said
109 Briggs road five hundred seventeen and two-tenths (517.2) feet to a point in said Briggs road; thence with the arc of a curve to the right, radius eight hundred forty-nine (849) feet, crossing said Briggs road and land now or formerly of said Orrin W. Phillips Estate hereinbefore mentioned, one hundred sixty-six and

nine-tenths (166.9) feet; thence northwesterly on a radial line to said arc crossing said Phillips land ten (10) feet; thence northeasterly with the arc of a curve to the right, radius eight hundred fifty-nine (859) feet, crossing said Phillips land two hundred sixty-one and six-tenths (261.6) feet; thence southeasterly on a radial line to said arc, crossing said Phillips land ten (10) feet; thence northeasterly with the arc of a curve to the right, radius eight hundred forty-nine (849) feet, crossing said Phillips land one hundred ninety-four and four tenths (194.4) feet to the southerly line of said Clayville-Foster Center road; thence crossing said Clayville-Foster Center road at right angles with said southerly line of said road forty (40) feet more or less to the northerly line of said road; thence easterly along said northerly line of said road six hundred (600) feet more or less; thence with the arc of a curve to the left, radius two thousand one hundred eighteen and eight-tenths (2,118.8) feet, crossing land now or formerly of John W. Bowen, the said Clayville-Foster Center road, land of said Providence and Danielson Railway Company, and land now or formerly of Fred S. Bowen, six hundred ninety-eight and one-tenth (698.1) feet; thence with the arc of a curve to the right, radius one thousand four hundred sixty-two and seven-tenths (1,462.7) feet, crossing said Fred S. Bowen land, three hundred fifty-six and six-tenths (356.6) feet; thence south eighty-three (83) degrees, thirty-six (36) minutes east, crossing said Bowen land, the said Clayville-Foster Center road and land now or formerly of Cephronia D. Cole, four hundred and five-tenths (400.5) feet; thence south fifty (50) minutes east, crossing said Cole land, seventeen (17) feet more or less to the northerly line of said Clayville-Foster Center road; thence southerly crossing said road fifty-five (55) feet more or less to the point of beginning;

and said strip of land is shown and delineated on said plat, sheets numbered A-17 and A-19, and said lands and parcels of land are the same as shown and delineated thereon within said strip, express reference to said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes in all said lands and parcels of land which are within said strip and are described in the next preceding paragraph hereof numbered "Fifth" only an easement for public highway uses and purposes.

Sixth. All the lands and parcels of land, with any and all the improvements thereon, situated in said Town of Scituate and comprising or included within that certain strip of land shown on said plat, sheet A-13, as a new highway and described as follows:

Beginning at a point in the southerly line of the Tunk Hill road, so-called, about fifteen hundred (1,500) feet westerly from the westerly line of land of the City of Providence, formerly of Benjamin F. Whitman; thence southeasterly with the arc of a curve to the right, radius five hundred ninety-eight and seven-tenths (598.7) feet, crossing land now or formerly of Sylvania Whitman and said Benjamin F. Whitman, three hundred forty-three (343) feet more or

less; thence south nine (9) degrees, forty-eight (48) minutes east, crossing said Whitman land one hundred eighty-five and six-tenths (185.6) feet; thence southerly with the arc of a curve to the right, radius seven hundred forty-one and eight-tenths (741.8) feet, crossing said Whitman land four hundred forty-two and eight-tenths (442.8) feet; thence south twenty-four (24) degrees, twenty-four (24) minutes west, crossing said Whitman land and land of the City of Providence, formerly of Lyman A. Knight, five hundred seventy-five and two-tenths (575.2) feet; thence southerly with the arc of a curve to the left, radius one thousand one hundred twenty-one and three-tenths (1,121.3) feet, crossing said City of Providence land four hundred seventy-five and six-tenths (475.6) feet; thence south no (0) degrees, six (6) minutes west, crossing said City of Providence land, three hundred sixty-one and two-tenths (361.2) feet; thence southeasterly with the arc of a curve to the left, radius five hundred forty-eight and seven-tenths (548.7) feet, crossing said City of Providence land seven hundred forty-two (742) feet more or less to the northerly line of the Kent-Coventry road at or near the boundary line shown on said plat and described in the paragraph numbered "First" herein; thence westerly with the northerly line of said Kent-Coventry road, four hundred fifty (450) feet more or less; thence northeasterly with the arc of a curve to the left, radius one hundred sixty-eight and two-tenths (168.2) feet, crossing said City of Providence land, three hundred twenty-one and five-tenths (321.5) feet; thence northerly with the arc of a curve to the right, radius five hundred ninety-eight and seven-tenths (598.7) feet, crossing said City of Providence land, three hundred ninety-four (394) feet; thence north no (0) degrees, six (6) minutes east, crossing said City of Providence land, three hundred sixty-one and two-tenths (361.2) feet; thence northerly with the arc of a curve to the right, radius one thousand one hundred seventy-one and three-tenths (1,171.3) feet crossing said City of Providence land, four hundred ninety-six and eight-tenths (496.8) feet; thence north twenty-four (24) degrees, twenty-four (24) minutes east, crossing said City of Providence land and said land of the aforementioned Sylvania and Benjamin F. Whitman, five hundred seventy-five and two-tenths (575.2) feet; thence northerly with the arc of a curve to the left, radius six hundred ninety-one and eight-tenths (691.8) feet
111 crossing said Whitman land four hundred twelve and nine-tenths (412.9) feet; thence north nine (9) degrees, forty-eight (48) minutes west, crossing said Whitman land, one hundred eighty-five and six-tenths (185.6) feet; thence northwesterly with the arc of a curve to the left, radius five hundred forty-eight and seven-tenths (548.7) feet, crossing said Whitman land, five hundred forty-seven (547) feet more or less to the southerly line of the aforementioned Tunk Hill road; thence easterly with the southerly line of said Tunk Hill road two hundred fifty (250) feet more or less to the place of beginning;

and said strip of land is shown and delineated on said plat, sheet numbered A-13, and said lands and parcels of land are the same as shown and delineated thereon within said strip, express reference

to said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes in all said lands and parcels of land which are within said strip and are described in the next preceding paragraph hereof numbered "Sixth" only an easement for public highway uses and purposes.

Seventh. All the lands and parcels of land, with any and all the improvements thereon, situated in said Town of Scituate and comprising or included within that certain strip of land shown on said plat, sheet A-9, as a new highway and described as follows:

Beginning at a point in the easterly line of the Kent-Hope East Road, so-called, thirteen hundred (1,300) feet more or less southerly from the northwesterly corner of land now or formerly of Nathan and Ebenezer B. Fiske; thence northerly with the arc of a curve to the right, radius one thousand one hundred seventy-one and three-tenths (1,171.3) feet, crossing said Fiske land, forty-two (42) feet more or less; thence north five (5) degrees, fifty-nine (59) minutes east, crossing said Fiske land one thousand one hundred thirty-five and six-tenths (1,135.6) feet; thence northerly with the arc of a curve to the left, radius five hundred forty-eight and seven-tenths (548.7) feet, crossing said Fiske land two hundred sixty-seven and four-tenths (267.4) feet; thence north twenty-one (21) degrees, fifty-six (56) minutes west, crossing said Fiske land, sixty-five (65) feet more or less to the boundary line shown on said plat and described in paragraph numbered "First" herein; thence easterly in a line coincident with said boundary line fifty-three (53) feet more or less; thence south twenty-one (21) degrees, fifty-six (56) minutes east, crossing said Fiske land, forty-eight (48) feet more or less; thence southerly with the arc of a curve to the right, radius five hundred ninety-eight and seven-tenths (598.7) feet, crossing
112 said Fiske land two hundred ninety-one and eight-tenths (291.8) feet; thence south five (5) degrees, fifty-nine (59) minutes west, crossing said Fiske land one thousand one hundred thirty-five and six-tenths (1,135.6) feet; thence southerly with the arc of a curve to the left, radius one thousand one hundred twenty-one and three-tenths (1,121.3) feet, crossing said Fiske land three hundred ninety (390) feet more or less to a point in the easterly line of said Kent-Hope East Road; thence northerly in the easterly line of said road, three hundred sixty-five (365) feet more or less to the place of beginning;

and said strip of land is shown and delineated on said plat, sheet numbered A-9, and said lands and parcels of land are the same as shown and delineated thereon within said strip, express reference to said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes in all said lands and parcels of land which are within said strip and are described in the next preceding paragraph hereof numbered "Seventh" only an easement for public highway uses and purposes.

Eighth. All the lands and parcels of land, with any and all the improvements thereon, situated in said Town of Scituate and comprising or included within that certain strip of land shown on said plat, sheet A-21, and described as follows:

Beginning at a point in the boundary line shown on said plat and described in paragraph numbered "First" herein, said point being about one hundred twenty (120) feet northerly from the northerly line of the Burnt Hill road, so-called; thence southwesterly with the arc of a curve to the left, radius three hundred eighty-five and three-tenths (385.3) feet crossing land of the City of Providence, formerly of Arthur S. Field and land now or formerly of Asa E. Colvin, two hundred ninety-two (292) feet; thence south fifteen (15) degrees, nineteen (19) minutes west, crossing said Colvin land, one hundred sixty-seven and nine-tenths (167.9) feet; thence southwesterly with the arc of a curve to the right, radius five hundred ninety-eight and seven-tenths (598.7) feet, crossing said Colvin land, said Burnt Hill road, and other land now or formerly of said Asa E. Colvin, two hundred seventy-eight and eight-tenths (278.8) feet; thence south forty-one (41) degrees, fifty-four (54) minutes west, crossing said Colvin land, one hundred sixty and nine-tenths (160.9) feet; thence southwesterly with the arc of a curve to the left, radius five hundred forty-eight and seven tenths (548.7) feet, crossing said Colvin land, one hundred thirty-six and six-tenths (136.6) feet; thence south twenty-seven (27) degrees, thirty-eight (38) minutes west,
113 crossing said Colvin land, two hundred ninety-seven and five-tenths (297.5) feet; thence southwesterly with the arc of a curve to the right, radius five hundred ninety-eight and seven-tenths (598.7) feet, crossing said Colvin land, one hundred eighty-seven and nine-tenths (187.9) feet to a point in the southerly line of said Burnt Hill road; thence westerly in the southerly line of said Burnt Hill road one thousasd two hundred sixty-seven (1,267) feet more or less, to a point in the easterly line of land now or formerly of Clinton H. Johnson; thence northerly crossing said Burnt Hill road and continuing in the easterly line of said Johnson land one hundred twenty-seven (127) feet more or less; thence northwesterly with the arc of a curve to the right, radius four hundred thirty-five and three-tenths (435.3) feet, crossing said Johnson land, one hundred twenty-one (121) feet; thence north fifty-two (52) degrees, twenty-seven (27) minutes west, crossing said Johnson land, seven hundred ninety-five and five-tenths (795.5) feet; thence northwesterly with the arc of a curve to the left, radius six hundred ninety-one and eight-tenths (691.8) feet, crossing said Johnson land two hundred eighty-three and five-tenths (283.5) feet to a point in the southerly line of land now or formerly of Emery Walker and wife; thence north seventy-five (75) degrees, fifty-six (56) minutes west, crossing said Walker land, two hundred sixty-two and nine-tenths (262.9) feet; thence northwesterly with the arc of a curve to the right, radius five hundred ninety-eight and seven-tenths (598.7) feet, crossing said Walker land, three hundred twenty-eight and one-tenth (328.1) feet; thence north forty-four (44) degrees, thirty-two (32) minutes

west; crossing said Walker land, and land of the City of Providence, formerly of Lyman A. Knight, fifty-nine and three-tenths (59.3) feet; thence northwesterly with the arc of a curve to the right, radius one thousand one hundred seventy-one and three-tenths (1,171.3) feet, crossing said City of Providence land, fifty (50) feet to said boundary line shown on said plat and described in paragraph numbered "First" herein; thence north seventy-two (72) degrees, fifty-one (51) minutes east, in a line coincident with said boundary line thirty (30) feet, to an angle in said boundary line; thence northerly in a line coincident with said boundary line forty-five (45) feet; thence southeasterly with the arc of a curve to the left, radius one thousand one hundred twenty-one and three-tenths (1,121.3) feet, crossing said Walker land seventy-seven (77) feet; thence south forty-four (44) degrees, thirty-two (32) minutes east, crossing said Walker land fifty-nine and three-tenths (59.3) feet; thence southeasterly with the arc of a curve to the left, radius five hundred forty-eight and seven-tenths (548.7) feet, crossing said Walker land three hundred and seven-tenths (300.7) feet; thence south seventy-five (75) degrees, fifty-six (56) minutes east, crossing said Walker land, two hundred sixty-two and nine-tenths (262.9) feet; thence southeasterly with the arc of a curve to the right, radius seven hundred forty-one and eight-tenths (741.8) feet, crossing said Walker land and said Johnson land three hundred four (304) feet; thence
114 south fifty-two (52) degrees, twenty-seven (27) minutes east, crossing said Johnson land seven hundred ninety-five and five-tenths (795.5) feet; thence southeasterly with the arc of a curve to the left, radius three hundred eighty-five and three-tenths (385.3) feet, crossing said Johnson land and land now or formerly of said Emery Walker and wife, four hundred thirty-five and five-tenths (435.5) feet; thence north sixty-two (62) degrees, forty-six (46) minutes east, crossing said Walker land, three hundred twenty-one (321) feet to a point in the northerly line of said Burnt Hill road; thence easterly in the northerly line of said Burnt Hill road eighty (80) feet more or less; thence north sixty-two (62) degrees, forty-six (46) minutes east, crossing said Walker land and land now or formerly of George P. Howard, three hundred five (305) feet; thence easterly with the arc of a curve to the left, radius five hundred forty-eight and seven-tenths (548.7) feet, crossing said Howard land and other land now or formerly of said Asa E. Colvin, two hundred fifty-four (254) feet to a point in the northwesterly line of said Burnt Hill road; thence northeasterly in the northwesterly line of said Burnt Hill road one hundred four (104) feet, more or less; thence north twenty-seven (27) degrees, thirty-eight (38) minutes east, crossing said Colvin land two hundred seventy-five (275) feet; thence northeasterly with the arc of a curve to the right, radius five hundred ninety-eight and seven-tenths (598.7) feet, crossing said Colvin land, one hundred forty-nine and one-tenth (149.1) feet; thence north forty-one (41) degrees, fifty-four (54) minutes east, crossing said Colvin land, one hundred sixty and nine-tenths (160.9) feet; thence northeasterly with the arc of a curve to the left, radius five hundred forty-eight and seven-tenths (548.7) feet, crossing said Colvin land

two hundred fifty-four and seven-tenths (254.7) feet; thence north fifteen (15) degrees, nineteen (19) minutes east, crossing said Colvin land, one hundred sixty-seven and nine-tenths (167.9) feet; thence northeasterly with the arc of a curve to the right, radius four hundred thirty-five and three-tenths (435.3) feet, crossing said Colvin land and land of the City of Providence, formerly of Arthur S. Field, three hundred forty-seven (347) feet, to said boundary line; thence southerly in a line coincident with said boundary line fifty-two (52) feet more or less to the point of beginning;

and said strip of land is shown and delineated on said plat, sheet numbered A-21, and said lands and parcels of land are the same as shown and delineated thereon within said strip, express reference to said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes in all said lands and parcels of land which are within said strip and are described in the next
115 preceding paragraph hereof numbered "Eighth" only an easement for public highway uses and purposes.

Ninth. All the lands and parcels of land, with any and all the improvements thereon, situated in said Town of Scituate and comprising or included within that certain strip of land shown on said plat, sheet A-21, and described as follows:

Beginning at a point in the westerly line of the Kent-Hope West Road, so-called, said point being about one thousand five hundred (1,500) feet southerly from the southeasterly corner of land now or formerly of George P. Howard; thence northerly crossing land now or formerly of Frank W. Howard, twenty-five (25) feet to a point five (5) feet westerly from the westerly line of said Kent-Hope West Road; thence northwesterly with the arc of a curve to the left, radius three hundred thirty-four and three-tenths (334.3) feet, crossing said Frank W. Howard land, five hundred sixty-three (563) feet; thence north seventy-nine (79) degrees, fifty-three (53) minutes west, crossing said Frank W. Howard land five hundred eighty-six and four-tenths (586.4) feet; thence westerly with the arc of a curve to the right, radius one thousand one hundred seventy-one and three-tenths (1,171.3) feet, crossing said Frank W. Howard land ninety and three-tenths (90.3) feet; thence north seventy-five (75) degrees, twenty-eight (28) minutes west, crossing said Frank W. Howard land, one hundred eighty-five (185) feet to a point in the easterly line of land now or formerly of said George P. Howard; thence southerly in the easterly line of said George P. Howard land five and two-tenths (5.2) feet; thence north seventy-five (75) degrees, twenty-eight (28) minutes west, crossing said George P. Howard land, three hundred five and nine-tenths (305.9) feet; thence northwesterly with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet, crossing said George P. Howard land, five hundred nine and three-tenths (509.3) feet; thence north twenty-seven (27) degrees, eight (8) minutes west, crossing said George P. Howard land one hundred ninety-four and seven-tenths (194.7) feet; thence north-

westerly with the arc of a curve to the left, radius five hundred forty-three and seven-tenths (543.7) feet, crossing said George P. Howard land, one hundred forty-two and three-tenths (142.3) feet; thence northerly in a radial line to the last described arc crossing said George P. Howard land five (5) feet; thence northwesterly with the arc of a curve to the left, radius five hundred forty-eight and seven-tenths (548.7) feet, crossing said George P. Howard land, three hundred ninety-five (395) feet; thence north eighty-three (83) degrees, twenty-three (23) minutes west, crossing said George P. Howard land four hundred fifteen and five-tenths (415.5) feet; thence westerly with the arc of a curve to the right, radius one thousand one hundred seventy-one and three-tenths (1,171.3) feet, crossing said George P. Howard land two hundred twenty-five and two-
116 tenths (225.2) feet; thence north seventy-two (72) degrees, twenty-two (22) minutes west, crossing said George P. Howard land, eight hundred fifteen (815) feet more or less to a point in the southerly line of the Burnt Hill road, so-called, said point being one hundred seventy-six (176) feet more or less easterly from a point in the southerly line of said Burnt Hill road, said last mentioned point being in range with the easterly line of land now or formerly of Clinton H. Johnson; thence easterly in the southerly line of said Burnt Hill road one hundred ninety-one (191) feet; thence southerly one hundred (100) feet more or less to a point fifty (50) feet northerly of the southwesterly line of said strip measured at right angles to said southwesterly line; thence south seventy-two (72) degrees, twenty-two (22) minutes east, crossing said George P. Howard land five hundred ninety-five (595) feet; thence with the arc of a curve to the left, radius one thousand one hundred twenty-one and three-tenths (1,121.3) feet crossing said Howard land, two hundred fifteen and six-tenths (215.6) feet; thence south eighty-three (83) degrees, twenty-three (23) minutes east, crossing said Howard land, four hundred fifteen and five-tenths (415.5) feet; thence with the arc of a curve to the right, radius five hundred ninety-eight and seven-tenths (598.7) feet crossing said Howard land four hundred thirty-one (431) feet; thence easterly in a radial line to said last mentioned arc, crossing said Howard land five (5) feet; thence with the arc of a curve to the right, radius six hundred three and seven-tenths (603.7) feet crossing said Howard land one hundred fifty-eight (158) feet; thence south twenty-seven (27) degrees, eight (8) minutes, crossing said Howard land, one hundred ninety-four and seven-tenths (194.7) feet; thence with the arc of a curve to the left, radius five hundred forty three and seven-tenths (543.7) feet, crossing said Howard land four hundred fifty-eight and six-tenths (458.6) feet; thence south seventy-five (75) degrees, twenty-eight (28) minuates east, crossing said Howard land, two hundred eighty-nine and one-tenth (289.1) feet to land now or formerly of said Frank W. Howard; thence southerly in the easterly line of said Frank W. Howard land five and two-tenths (5.2) feet; thence south seventy-five (75) degrees, twenty-eight (28) minutes east, crossing said Frank W. Howard land, one hundred ninety-nine (199) feet; thence with the arc of a curve to the left, radius eleven

hundred twenty-one and three-tenths (1,121.3) feet, crossing said Frank W. Howard land, eighty-six and four-tenths (86.4) feet; thence south seventy-nine (79) degrees, fifty-three (53) minutes east, crossing said Frank W. Howard land, five hundred eighty-six and four-tenths (586.4) feet; thence with the arc of a curve to the right, radius three hundred eighty-four and three-tenths (384.3) feet, crossing said Frank W. Howard land, four hundred fifty-five (455) feet more or less to a point in the westerly line of said Kent-Hope West Road; thence southerly in the westerly line of said Kent-Hope West Road, two hundred seven (207) feet more or less to the place of beginning;

117 and said strip of land is shown and delineated on said plat, sheet numbered A-21, and said lands and parcels of land are the same as shown and delineated thereon within said strip, express reference to said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes in all said lands and parcels of land which are within said strip and are described in the next preceding paragraph hereof numbered "Ninth" only an easement for public highway uses and purposes.

Tenth. All the lands, with any and all the improvements thereon, situated in said Town of Scituate and comprising or included within that certain tract of land shown on said plat, sheet A-17, as parcel numbered 650-D and marked "General Burial Ground" thereon, and bounded and described as follows:

Beginning at a point on land of Mercie A. Wells at a corner in the boundary line shown on said plat and described in paragraph numbered "First" herein; thence south forty-five (45) degrees forty-one (41) minutes east, along said boundary line three hundred fifty-seven and nine-tenths (357.9) feet; thence south thirty-two (32) degrees, two (2) minutes east, along said boundary line two hundred thirty and three-tenths (230.3) feet; thence south four (4) degrees, thirty-two (32) minutes east, along said boundary line three hundred twenty-one (321) feet more or less to the northwesterly line of the location of the Providence and Danielson Railway Company; thence southwesterly in the northwesterly line of said location which line is coincident with said boundary line, three hundred and three-tenths (300.3) feet; thence north eighty-two (82) degrees, fifty-two (52) minutes west, along said boundary line one hundred seventy-one and two-tenths (171.2) feet; thence north sixty-three (63) degrees, forty-nine (49) minutes west, along said boundary line three hundred twenty-eight and seven-tenths (328.7) feet; thence north no (0) degrees, forty-three (43) minutes east, along said boundary and a line in continuation of said boundary line crossing said Wells land seven hundred ninety-five (795) feet; thence south eighty-seven (87) degrees, fifty-eight (58) minutes east, crossing said Wells land, two hundred eighty-two and two-tenths (282.2) feet to the point of beginning;

and said tract of land is shown and delineated on said plat, sheet numbered A-17, and said lands are the same as shown and delineated thereon within said tract, express reference to said plat being hereby made for a more complete description of said lands. But there is excepted, however, from this description and this taking the
118 the existing burial ground within said tract which burial ground is shown on said plat sheet as parcel numbered 1184 containing six-hundredths (6-100) of an acre, and which burial ground is entirely surrounded by a stone wall.

And said City of Providence takes all said lands and parcels of land, except said burial ground, which are within said tract and are described in the next preceding paragraph hereof numbered "Tenth" in fee simple and for a general burial ground for reburying therein the remains found in any burial ground, cemetery, graves or places of human burial, within any lands now or hereafter acquired by said City by purchase or condemnation under the provisions of said Act, which places are to be flowed by water or are located so near to said storage reservoir or any such waterway as to be liable to pollute or reduce the quality or value of any such waters as a potable water supply, and which remains are not elsewhere reinterred in conformity with the provisions of said Act, and for the uses and purposes specified in Section 13 of said Act.

Eleventh. All the lands and parcels of land, with any and all improvements thereon, situated in said Town of Scituate and comprising or included within that certain tract of land shown on said plat, sheet A-9, as parcels numbered 7-D and 8-D and marked "General Burial Ground" thereon, and bounded and described as follows:

Beginning at a point in the westerly line of the Kent-Hope East Road, so-called, at a corner in the boundary line shown on said plat and described in paragraph numbered "First" herein; thence north eighty-three (83) degrees, forty-nine (49) minutes west, in the northerly line of land of Hannah M. and Harden I. Fiske, nine hundred nine and seven-tenths (909.7) feet, to another corner in said boundary line; thence north six (6) degrees, ten (10) minutes east, along said boundary line four hundred six and five-tenths (406.5) feet; thence south eighty-four (84) degrees, fifty (50) minutes east, along said boundary line four hundred (400) feet; thence south forty-one (41) degrees, twenty-six (26) minutes east, along said boundary line five hundred forty-three and seven-tenths (543.7) feet; thence north sixty-five (65) degrees, thirty-seven (37) minutes east, along said boundary line seventy-five (75) feet to a point at an angle in said boundary line and in the westerly line of said Kent-Hope East Road; thence southerly in the westerly line
119 of said road coincident with said boundary line ninety-five and seven-tenths (95.7) feet to the point of beginning;

and said tract of land is shown and delineated on said plat sheet numbered A-9, and said lands and parcels of land are the same as shown and delineated thereon within said tract, express reference

to said plat being hereby made for a more complete and several description of said lands and parcels of land.

And said City of Providence takes all said lands and parcels of land which are within said tract and are described in the next preceding paragraph hereof numbered "Eleventh" in fee simple and for a general burial ground for reburying therein the remains found in any burial ground, cemetery, graves or places of human burial, within any lands now or hereafter acquired by said City by purchase or condemnation under the provisions of said Act, which places are to be flowed by water or are located so near to said storage reservoir or any such waterway as to be liable to pollute or reduce the quality or value of any such waters as a potable water supply, and which remains are not elsewhere reinterred in conformity with the provisions of said Act, and for the uses and purposes specified in Section 13 of said Act.

Twelfth. All the waters of said north branch of said Pawtuxet River and its tributaries, included within any and all said lands and parcels of land hereinbefore taken and situated within said area of land hereinbefore described in paragraph numbered "First" herein, and any and all water and flowage rights and privileges appurtenant to or connected with said lands and parcels of land, and any and all waters flowing into said storage reservoir, with the right to hold all said waters and to appropriate and divert the same for said water supply and the water supply purposes specified in said Act, except as hereinafter set forth and provided, and subject to all the conditions, limitations, restrictions, reservations, obligations and requirements relative thereto or any thereof specified in said Act, and especially in Section 6 thereof, and especially subject to the following provisos: Provided, however, that said City of Providence shall not hold or divert any such waters until said storage reservoir is ready for use; and further provided, that from the time when
120 said City begins to hold or store water in said storage reservoir to the time when for the first time twenty billion (20,000,000,000) gallons of water shall have been held and stored therein, said City shall not during any week day diminish the flow of said branch immediately below said dam of said storage reservoir below the amount which would run in said branch if said storage reservoir built by said City did not exist, except that when such flow of said branch would exceed twenty million (20,000,000) gallons per day said City may hold and store all the water in excess of said twenty million (20,000,000) gallons; and further provided, that after said City has for the first time held and stored in said storage reservoir twenty billion (20,000,000,000) gallons of water, it shall draw from said storage reservoir, in each month a quantity of water equivalent to not less than seventy million (70,000,000) gallons daily, and all the above monthly quantity of water which is not diverted for a water supply for said City of Providence, and for any territories supplied on the date of the passage of said Act, or thereafter supplied under the provisions of said Act, in the City of Cranston, the towns of North Providence, Johnston and Warwick, or elsewhere, shall be

discharged into said branch above the dam of the Hope Mills, so-called, in the town of Scituate, except that, if in any year said storage reservoir does not fill by the first day of June, thereafter until it does fill, the quantity of water to be drawn as aforesaid for the purposes aforesaid shall be equivalent to not less than sixty-five million (65,000,000) gallons daily, instead of to not less than seventy million (70,000,000) gallons daily; and further provided, that from the time said City begins to use said storage reservoir and to hold or divert any such waters, said City, although observing the aforegoing limitations and requirements, shall not hold or divert the same to any extent that would prevent its observance of the following paramount limitations and requirements: That said City shall forever discharge from said storage reservoir into said branch sufficient water to maintain a flow of water, in said branch below said dam of said storage reservoir, of not less than five hundred thousand (500,000) gallons each day; and such further quantity of water and at such times and in such manner as may be necessary
121 to maintain and so that there be maintained, a flow, in said branch into the pond formed by the Arkwright dam of the Interlaken Mills, so-called, in the Town of Coventry, of not less than six million (6,000,000) gallons each day, except Sunday; and such further quantity of water and at such times and in such manner as may be necessary to maintain and so that there shall be maintained a flow, in said branch at the Clyde Bleachery and Print Works, in the Town of West Warwick, of such quantity not exceeding seventy-two million (72,000,000) gallons in each week, as the owner or owners of said Clyde Bleachery and Print Works from time to time shall certify to be necessary for use therein, and in other buildings owned on the date of the passage of said Act or thereafter owned by him or them on the premises, for manufacturing purposes other than the production of water power.

And said City of Providence takes all said waters and water and flowage rights and privileges to the extent hereinbefore described as taken, absolutely, and for said water supply for the City of Providence, and for the territories supplied on the date of the passage of said Act in the City of Cranston and towns of North Providence, Johnston and Warwick, and for any territories which thereafter may be supplied and to the extent that they may be supplied under the provisions of Section 18 of said Act which reads as follows:

"Sec. 18. Said town of Scituate, the City of Cranston, and each water or fire district therein now or hereafter incorporated, and each other town, city or water or fire district now or hereafter incorporated having any of its territory included in the drainage district of said north branch of said Pawtuxet river, or of the drainage district of said Pawtuxet river below the junction of the north and south branches of said river, shall have the right to take and receive water from said storage reservoir or reservoirs, said aqueduct or the reservoir of said city at said Sockanosset, for use for domestic, fire and other ordinary municipal water supply purposes in the town of Scituate or the City of Cranston, or such water or fire district therein, or in any part or parts of such territory or territories of such other

town, city or water or fire district as are included in either of said drainage districts where there is no public water supply being
122 furnished by any public or quasi public body or corporation at the time such town, city or water district decides to take such water. The town of Warwick or any water or fire district therein shall have the further right to take and receive water as aforesaid for use as aforesaid in any part of its territory lying easterly of the New York, Providence and Boston railroad line of the New York, New Haven and Hartford Railroad Company and northerly of Greenwich bay, where there is no public water supply being furnished as aforesaid. Proper connections with said water supply source or sources, including the installation of proper meters or other devices for ascertaining the quantity of water so taken, shall be made at such suitable location or locations as shall be approved by the officer or officers in charge of the water works of said City of Providence, and at the expense of the town, city or district desiring to take such water, and subject to such reasonable rules and regulations as from time to time may be made by said City of Providence or its duly authorized officer or officers in charge of its water works. Such town, city or water or fire district shall have the right to take such water as aforesaid to any extent each month not exceeding an average per day of one hundred gallons per capita of the number of inhabitants of such parts of its territory or territories as are served from such water supply source or sources, as such number of inhabitants was shown by the last preceding census of the United States or of the state of Rhode Island, unless and to the extent and for the time only that said officer or officers of said City of Providence shall consent to the taking by such town, city or water or fire district of a greater quantity of such water. Such town, city or water or fire district shall pay to said City of Providence such fair wholesale rates or charges for the quantity of water taken by it as aforesaid, and at such times, and the rates fixed to continue during such periods, as may be mutually agreed upon, or in default of agreement as shall be determined by three arbitrators, one to be chosen by it, one by said City of Providence and the third by the two so chosen, or in case either party should refuse or neglect to appoint such arbitrator, or in case the two arbitrators chosen
123 by the parties should refuse or neglect to appoint the third arbitrator, the Superior Court for Providence county, upon petition of either party and after giving the other party opportunity to be heard, shall appoint such arbitrator or such third arbitrator as the case may be. Said City of Providence may furnish water from such water supply source or sources to any incorporated water company for use as aforesaid in any territory included in either of said drainage districts, where at the time of beginning to furnish such water there is no public water supply, whether by a public or quasi public body or corporation other than the water supply of such water company, in any part of the territory that is supplied by such water company, or for use as aforesaid in said territory in Warwick easterly of said railroad line and northerly of said Greenwich bay."

And in taking said waters and water and flowage rights and privileges as aforesaid said City of Providence includes any and all riparian rights thereto or therein which are appurtenant, attached or incident to any and all the riparian lands, situated on said north branch of said Pawtuxet river, below said dam of said storage reservoir located near and south of said Kent, in the Towns of Scituate, Coventry and West Warwick and the City of Cranston, and situated on said Pawtuxet river, below the junction of said north branch and the south branch of said river, in the Towns of West Warwick and Warwick and the City of Cranston, to the extent that said rights are taken by said taking to the extent hereinbefore described and limited.

And any and all the aforesaid takings herein or hereunder of any and all lands, or interests therein, included in any and all public highways or roads, or parts thereof, in which the public highway easement is not permitted to be taken under said Act, are hereby expressly made subject to such public highway easement.

And although the measurements given herein and the measurements and areas given or shown on said plat are believed to be approximately correct, yet all the lands described or delineated as included in any and all the takings herein or hereunder are hereby taken as aforesaid, whether said measurements or areas are
124 greater or less than given or shown herein or on said plat.

JOSEPH H. GAINER,
Mayor of the City of Providence.

A true copy,

Attest:
T. FREDERICK CHASE,
City Sergeant of the City of Providence.

125 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
Providence, sc:

[L. S.]

To City of Providence, a municipal corporation; Walter L. Clarke, of Providence, city treasurer thereof; B. Thomas Potter, William P. Vaughn, William B. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood, and Walter F. Slade, all of said Providence, constituting the Water Supply Board of said City of Providence, Greeting:

We command that you appear before our Superior Court, at Providence, within the County of Providence, on the 18th day of April, A. D. 1921, then and there to answer to a bill of complaint exhibited against you in our said Court by the Scituate Light and Power Company, a corporation, and to do, and to receive what our said Court shall then and there consider in that behalf.

Hereof fail not, under the pains and penalties of the law in that behalf provided. And the Sheriff of said County of Providence, or his deputy, or the Sheriffs, or their deputies of other Counties, are

hereby commanded to make service of this Writ, by reading the same to the said Respondents or by leaving a true and attested copy thereof in the hands or possession or at the last and usual place of abode of each of them forthwith and upon said respondent corporation according to law.

Hereof make true return on or before said 18" day of April A. D. 1921.

Witness, the Seal of our Superior Court, at Providence, this 11th day of April A. D. 1921.

WALTER S. REYNOLDS,
Clerk.

126 PROVIDENCE, *sc:*

In Providence in said County on this 12th day of April, A. D. 1921, I have this day made service of the within Subpœna as within commanded by leaving a true and attested copy of the same with each of the within named respondents in his hands and possession, and upon said respondent corporation by leaving a true and attested copy of the same at the office of the corporation in the hands and possession of Walter L. Clarke, Treasurer thereof, within my precinct.

HERMAN PASTER,
Deputy Sheriff.

Services	$6.00
Copies	6.00
Travel	.80
	$12.80

[Endorsed:] Eq. No. 5389. Subpœna. Received Apr. 11, 1921. Sheriff's office. Superior Court. Filed Dec. 2, 1921. Walter S. Reynolds, Clerk.

127 STATE OF RHODE ISLAND,
Providence, sc:

Superior Court.

Eq. No. 5389.

SCITUATE LIGHT & POWER COMPANY

v.

WALTER L. CLARKE, City Treasurer, et al.

Appearance for the Defendants.

We hereby enter our appearance as Solicitors for all said defendants.

ELMER S. CHACE.
ALBERT A. BAKER.

128 STATE OF RHODE ISLAND,
Providence, sc:

Superior Court.

Eq. No. 5389.

SCITUATE LIGHT AND POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

The Joint and Several Answer of the City of Providence, Walter L. Clarke, City Treasurer Thereof, and B. Thomas Potter, William P. Vaughn, William A. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood, and Walter F. Slade, Constituting the Water Supply Board of said City, Defendants, to the Bill of Complaint of the Scituate Light and Power Company in the Above-entitled Cause.

These defendants reserving to itself and themselves all benefit of exception to said bill of complaint, for answer thereto or to so much thereof as it and they are advised is material or necessary to make answer unto, say:

1. They admit the allegations contained in paragraph numbered 1 of said bill of complaint that said complainant is a corporation created under an act of the General Assembly of said State of Rhode Island and carrying on the business of furnishing light and motive power in said State in the Town of Scituate. They aver that they have no knowledge or information sufficient to form a belief as to the truth of the other allegations contained in said paragraph numbered 1 of said bill, and therefore neither admit nor deny the same but leave the complainant to make proof thereof as it may be advised.

2. They admit the allegations contained in paragraph numbered 2 of said bill.

3. They admit the allegations contained in paragraph numbered 3 and the next following paragraph of said bill.

129 4. They admit the allegations contained in paragraph numbered 4 of said bill.

5. They admit the allegations contained in paragraph numbered 5 of said bill except the part thereof that said act does not give "any opportunity for the decision of said question by any impartial tribunal," and if this is material and required to be answered, they deny that said board was not an impartial tribunal to decide said question, and aver that said board was duly appointed and constituted by said act as a proper and impartial tribunal or commission to investigate and determine.

"Whether a part of the north branch of the Pawtuxet River, and the water shed tributary thereto, would be the most available and desirable source for a supply of pure and wholesome water for the City of Providence and for any territories now supplied or hereafter supplied under the provisions of this act by means of the water works of said city * * *."

6. They admit the allegations contained in paragraph numbered 6 of said bill.

7. They admit the allegations contained in paragraph numbered 7 of said bill, except the part thereof that said act does not give any opportunity for an impartial consideration and determination of the necessity for the taking and of what shall be taken, and if this is material and required to be answered, they deny that said act does not give opportunity for an impartial consideration, determination and decision as to the necessity for the taking and what shall be taken by action of the City Council of said City within the authority delegated to it by Section 5 of said act to take any of the lands included within the area described therein, and aver that the necessity of such taking is duly determined and established by and under said act.

8. They admit the allegations contained in paragraph numbered 8 of said bill.

9. They admit the allegations contained in paragraph numbered 9 of said bill, except the part thereof that opportunity is not given for submitting the question of the necessity of the taking to an impartial tribunal, and if this is material and required to be answered, they deny that said act, in empowering said city by action of its City Council to take such waters, water and flowage rights or privileges within the authority delegated to it by Section 6 of said act, and within the limits therein specified, did not give opportunity for the determination thereof by an impartial tribunal, and aver that the necessity of such taking is duly determined and established by and under said act.

10. They admit the allegations contained in paragraph numbered 10 of said bill.

11. They admit the allegations contained in paragraph numbered 11 of said bill.

12. They admit the allegations contained in paragraph numbered 12 of said bill.

13. They admit the allegations contained in paragraph numbered 13 of said bill, except the part thereof that said act does not provide for the decision by an impartial tribunal of the question of the public necessity for such new highways or relocation of parts of existing highways, and this they deny, and aver that said Section 8 of said act under certain conditions requires said City to lay out said new highways and relocated parts of existing highways, and specifies the general locations thereof, and makes the particular

locations thereof subject to the prior approval of the State Board of Public Roads or of the Town Council of Scituate, all as set forth in detail in said Section 8, and aver that the necessity of such taking is duly determined and established by and under said act.

14. They admit the allegations contained in paragraph numbered 14 of said bill.

15. They admit the allegations contained in paragraph numbered 15 of said bill.

16. They admit the allegations contained in paragraph numbered 16 of said bill.

131 17. As to the allegations contained in paragraph numbered 17 of said bill, they aver that the same are immaterial and that they are not required to answer the same.

18. They admit the allegations contained in paragraph numbered 18 of said bill.

19. They admit the allegations contained in paragraph numbered 19 of said bill.

20. As to the allegations contained in paragraph numbered 20 of said bill, they aver that the same are immaterial and that they are not required to answer the same.

21. They admit the allegations contained in paragraph numbered 21 and the next following paragraph of said bill.

22. They deny the allegations contained in paragraph numbered 22 of said bill, but if the word "furnishing" therein is used in the sense of creating or establishing said water supply, they aver that said allegations are immaterial and that they are not required to answer the same.

23. They admit the allegations contained in paragraph numbered 23 of said bill.

24. They admit the allegations contained in paragraph numbered 24 of said bill.

25. They deny the allegations contained in paragraph numbered 25 of said bill, and aver that the reasonableness of the taking of such lands and the purpose for which the land is held is determined and established by and under said act.

26. They admit the allegations contained in paragraph numbered 26 of said bill.

27. They admit the allegations contained in paragraph numbered 27 of said bill.

28. They admit the allegations contained in paragraph numbered 28 of said bill, except the part thereof that said act does not give opportunity for the determination of the public necessity of such taking to be passed on by any disinterested tribunal, and if this is ma-

terial and required to be answered, they deny that said act,
132 in empowering said city by action of said City Council to make such taking within the authority delegated to it and subject to the limitations prescribed therein does not give opportunity for the determination thereof by a disinterested tribunal, and aver that the public necessity of such taking is duly determined and established by and under said act.

29. They admit the allegations contained in paragraph numbered 29 of said bill.

30. As to the allegations contained in paragraph numbered 30 of said bill, they aver that the same are immaterial and that they are not required to answer the same.

31. They admit the allegations contained in paragraph numbered 31 of said bill as substantially correct, but refer to said act for a more exact and complete statement of said provisions.

32. They admit the allegations contained in paragraph numbered 32 of said bill as substantially correct, but refer to said act for a more complete and exact statement of said provisions.

33. As to the allegations contained in paragraph numbered 33 of said bill, they aver that the same are immaterial and that they are not required to answer the same.

34. They admit the allegations contained in paragraph numbered 34 of said bill to be substantially correct, but refer to said section 23 for a more exact and complete statement of said provisions.

35. They admit the allegations contained in paragraph numbered 35 of said bill which set forth provisions of Section 23 of said act. As to the other allegations contained therein they aver that the same are immaterial and that they are not required to answer the same.

36. They admit the allegations contained in paragraph numbered 36 of said bill.

133 37. They aver that the allegations contained in paragraph numbered 37 are immaterial, ignore relevant provisions of the act set forth in said bill and allege conclusions of law, and that they are not required to answer the same, but if and so far as any of the same are material and required to be answered, they deny the same.

38. They admit the allegations contained in paragraph numbered 38 of said bill.

39. They admit the allegations contained in paragraph numbered 39 of said bill.

40. They admit the allegations contained in paragraph numbered 40 of said bill.

41. They admit the allegations contained in paragraph numbered 41 of said bill, except they deny that said resolution and statement

and plat does not designate any special purpose or purposes as the occasion of the taking of any specific parcel or parcels.

42. They admit the allegations contained in paragraph numbered 42 of said bill.

43. They admit the allegations contained in paragraph numbered 43 of said bill.

44. They admit the allegations contained in paragraph numbered 44 of said bill.

45. They admit the allegations of fact contained in paragraph numbered 45 of said bill.

46. They admit the allegations contained in paragraph numbered 46 of said bill.

47. They admit the allegations contained in paragraph numbered 47 of said bill.

48. They admit the allegations contained in paragraph numbered 48 of said bill.

49. They admit the allegations contained in paragraph numbered 49 of said bill.

134 50. They admit the allegations contained in paragraph numbered 50 of said bill.

51. They admit the allegations contained in paragraph numbered 51 and the next following paragraph of said bill.

52. As to the allegations contained in paragraph numbered 52 of said bill, they admit that said City has acquired by purchase divers tracts of land within the condemned area, and aver that before said condemnation it so acquired more than five thousand acres of land with the buildings and improvements thereon, and since said condemnation has settled with the owners of about three thousand acres of land and the buildings and improvements thereon within the condemned area, including the owners of two mills and mill villages therein, without any question of the legality or regularity of the condemnation being raised by any one, and after said complainant questioned the constitutionality of said act has settled with the owners of about twenty two hundred and fifty more acres of land, making a total of about ten thousand two hundred and fifty acres paid for out of a total of about fourteen thousand four hundred and twenty five acres purchased or condemned.

53. They admit the allegations contained in paragraph numbered 53 of said bill, except they aver that the part of the dam which was under construction has been completed, but the work of constructing the entire main dam will probably require about four years more, and that the City will be able to take water for water supply purposes from said reservoir about one year later than the completion of said main dam.

54. They admit the allegations contained in paragraph numbered 54 of said bill, except they deny that said City has no need for taking possession of said orator's properties until said dam is nearly or quite completed, and aver on information and belief that the complainant at the time of said taking was the owner of various extensive tracts of land, which in part are included within the location of said reservoir as planned and in part within the locations of
135 the various new highways and relocated highways which are required by and under said act to be laid out and constructed, and aver that the same will be required to be used in the construction of said reservoir and the improvement of the lands therein therefor and the construction of said highways long before said dam shall be completed.

55. They deny the allegations contained in paragraph numbered 55 of said bill and the conclusions of law therein averred.

56. As to the allegations contained in paragraph numbered 56 of said bill, if material and required to be answered, they deny the same and the allegation that the taking of said complainant's property and mills was not necessary for the purposes of said act, and aver that the necessity of taking the same was duly determined and established by and under said act.

57. They deny the allegations contained in paragraph numbered 57 of said bill and the conclusions of law therein alleged.

58. They deny the allegations contained in paragraph numbered 58 of said bill and the conclusions of law therein averred.

59. They aver that in view of the relevant provisions of said act the allegations contained in paragraph numbered 59 of said bill are immaterial, and that they are not required to answer the same, but if and so far as any of the same are material and required to be answered, they deny the same and the conclusions of law therein averred.

60. As to the allegations of fact contained in paragraph numbered 60 of said bill, they aver that the same are immaterial and that they are not required to answer the same, and they deny the conclusions of law therein averred.

61. As to the allegations contained in paragraph numbered 61 of said bill, they aver that the same are immaterial and that they are not required to answer the same.

136 62. As to the allegations contained in paragraph numbered 62 of said bill, they aver that there is no equity in favor of the complainant to restrain said City from taking such possession at any time after one year from such taking as expressly authorized by said act.

63. As to the allegations contained in paragraph numbered 63 of said bill, they aver that the same are immaterial and that they are not required to answer the same.

64. And these defendants further answering as to the allegations contained in paragraphs numbered "22," "58" and "59" of said bill relative to the provisions of Section 18 of said act, say that said territories therein described, and for which a public water supply may be obtained in accordance with said section, are dependent for a public water supply in whole or in part upon said north branch of the Pawtuxet River or said Pawtuxet River below the junction of the north and south branches thereof, and that their natural and equitable right to have such a supply was recognized by the Legislature and the City Council of Providence, and that the provisions of said Section 18 were not adversely imposed upon said City, but as directed by resolution of the City Council of said City, approved March 16, 1915, the City Solicitor thereof applied to the Legislature for the passage of said act, including said Section 18, said resolution being numbered 120, series of 1915, and the following being a copy thereof; viz:

"*Resolution Directing the City Solicitor to Apply for Legislation to Provide for Furnishing the City of Providence With a Supply of Pure Water.*

"Resolved, That the City Solicitor is hereby directed to apply to the General Assembly for the passage of such legislation as will provide for furnishing the City of Providence with a supply of pure water, substantially in conformity with the accompanying draft act."

and the following being a copy of Section 18 of said accompanying draft act, viz:

137 "Sec. 18. Said town of Scituate and each water or fire district therein now or hereafter incorporated, and each other town, city or water or fire district now or hereafter incorporated having any of its territory included in the drainage district of said north branch of said Pawtuxet river, or of the drainage district of said Pawtuxet river below the junction of the north and south branches of said river, shall have the right to take and receive water from said storage reservoir or reservoirs, said aqueduct or the reservoir of said city at said Sockanosset, for use for domestic, fire and other ordinary municipal water supply purposes in the town of Scituate or such water or fire district therein, or in any part or parts of such territory or territories of such other town, city or water or fire district as are included in either of said drainage districts, where there is no public water supply being furnished by any public or quasi public body or corporation at the time such town, city or water district decides to take such water. The town of Warwick or any water or fire district therein shall have the further right to take and receive water as aforesaid for use as aforesaid in any parts of its territory lying easterly of the New York, Providence and Boston railroad line of the New York, New Haven and Hartford Railroad Company and northerly of Greenwich bay, where there is no public water supply being furnished as aforesaid. Proper connections with said water supply source or sources, including the installation of proper meters or other

devices for ascertaining the quantity of water so taken, shall be made at such suitable location or locations as shall be approved by the officer or officers in charge of the water works of said city of Providence, and at the expense of the town, city or district desiring to take such water, and subject to such reasonable rules and regulations as from time to time may be made by said City of Providence or its duly authorized officer or officers in charge of its water works. Such town, city or water district shall have the right to take such water as aforesaid to any extent each month not exceeding an average per day of one hundred gallons per capita of the number of inhabitants of such parts of its territory or territories as are served from such water supply source or sources, as such number of inhabitants was shown by the last preceding census of the United States or of the state of Rhode Island, unless and to the extent and for the time only that said officer or officers of said city of Providence shall consent to the taking by such town, city or water or fire district of a greater quantity of such water. Such town, city or water or fire district shall pay to said city of Providence such fair wholesale rates or charges for the quantity of water taken by it as aforesaid, and at such times, and the rates fixed to continue during such period, as may be mutually agreed upon, or in default of agreement as shall be determined by three arbitrators, one to be chosen by it, one by said city of Providence and the third by the two so chosen, or in case either party should refuse or neglect to appoint such arbitrator, or in case the two arbitrators chosen by the parties should refuse or neglect to appoint the third arbitrator, said superior court for Providence county, upon petition of either party and after giving the other party opportunity to be heard, shall appoint such arbitrator or such third arbitrator as the case may be. Said city of Providence may furnish water from such water supply source or sources to any incorporated water company for use as aforesaid in any territory included in either of said drainage districts, where at the time of beginning to furnish such water there is no public water supply, whether by a public or quasi public body or corporation other than the water supply of such water company, in any part of the territory that is supplied by such water company, or for use as aforesaid in said territory in Warwick easterly of said railroad line and northerly of said Greenwich bay."

138 And these defendants further say that said territories which have no public water supply, and which have the right to obtain a water supply from said source or sources, comprise for the most part agricultural communities of small population, and include several mill villages, and the territory in Warwick lying easterly of the railroad line and northerly of Greenwich bay is occupied almost wholly by summer residences, and the total population of said territories not supplied which have said water supply right, as estimated in view of the Rhode Island State Census of 1915 and the United States Census of 1920, was and is approximately nineteen thousand, while the population of said city of Providence and the other territories or parts thereof supplied by the water works of said city at the time of the passage of said act on April 21, 1915, was approximately

two hundred and seventy thousand, and now is about the same, and on account of the territories having such water supply right comprising for the most part rural communities, it would be on account of the prohibitive cost of installing a water distributing system impracticable for a large part of said nineteen thousand population to have a public water supply furnished them, and that to any extent that such territories should not take water from said source, the same would not be detrimental to, but would be beneficial to said city, as the water supply provided by and under said Act will, as is estimated by hydraulic engineers, be sufficient to supply the demands of the territories now supplied by the water works of said city only until about the year 1965.

And that said City Council had power to act in the premises and to apply for and to accept said act by virtue of either its public legislative powers or its private powers, or both, and under Section II, of the Charter of said city the administration of the fiscal, prudential and municipal affairs of said city, with the conduct and government thereof, was vested in said City Council at the time of the passage of its said resolution and at the time of the ac-
139 ceptance of said act, said Section II of said City Charter reading as follows:

Section II.

"Clause 1. The administration of all the fiscal, prudential and municipal affairs of said city, with the conduct and government thereof, shall be vested in one principal officer to be styled the mayor; one council of ten persons to be styled the aldermen; and one council of forty persons to be styled the common council; together with such other magistrates or officers as are hereinafter specified, or by the laws of this state or the ordinances of the said city are, or hereafter may be, authorized or prescribed."

"Clause 2. The mayor, aldermen, and common council, in their joint capacity, shall be styled the city council."

65. And these respondents deny that any other matter, cause or thing in said bill contained, material or necessary for these respondents to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, avoided or denied, is true to the knowledge, information or belief of these respondents, all of which matters and things these respondents are ready and willing to aver, maintain and prove as this Honorable Court may direct, and pray that the said complainant may be decreed to pay to them such of their costs of this suit as are properly allowable to them.

CITY OF PROVIDENCE,
By JOSEPH H. GAINER, *Mayor.*
ALL THE OTHER SAID RESPONDENTS,
By Their Solicitors, ELMER S. CHACE,
ALBERT A. BAKER.

ELMER S. CHACE,
ALBERT A. BAKER,
Solicitors for Respondents.

140 STATE OF RHODE ISLAND,
Providence sc:

Superior Court.

Eq. No. 5389.

SCITUATE LIGHT & POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

The Attention of the Court is Called to a Constitutional Question on the Record.

The defendant City of Providence and the other said defendants call the attention of the Court to the fact that the constitutionality of an act of the General Assembly is clearly questioned by allegations of said bill of complaint, and is brought in question upon the record, and to the provisions of Section 1 of Chapter 298 of the General Laws.

By Their Solicitors, ELMER S. CHACE.
ALBERT A. BAKER.

141 STATE OF RHODE ISLAND,
Providence sc:

Superior Court.

Eq. No. 5389.

SCITUATE LIGHT & POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

Order Certifying Constitutional Questions to the Supreme Court.

In the above entitled cause, it appearing that the constitutionality of an act of the General Assembly is clearly questioned by allegations of said bill of complaint and is brought in question upon the record, it is hereby ordered that said questions be and hereby are certified to the Supreme Court to be heard and determined, and that the entire record in said cause be forthwith transmitted to said Supreme Court.

Entered as the order of the Court this 27th day of April, A. D. 1921.

By order,

ROBERT C. ROOT,
Asst. Clerk.

Enter:
BARROWS, *J.*

142 Supreme Court.

C. Q. No. 509.

JOSLIN MANUFACTURING CO.

v.

WALTER L. CLARKE, City Treas., et al.

C. Q. No. 510.

SCITUATE LIGHT & POWER CO.

v.

WALTER L. CLARKE, City Treas., et al.

C. Q. No. 511.

THERESA B. JOSLIN

v.

WALTER L. CLARKE, City Treas., et al.

Opinion.

STEARNS, *J.:*

The proceedings in each of these causes is by a bill in equity which was brought in the Superior Court to restrain the City of Providence, its agents and servants, from taking possession of or interfering with the property of the complainants. The constitutionality of an act of the General Assembly having been brought in question by the pleadings and upon the record, the three causes were then certified to this court for the determination of the constitutional questions, in accordance with the provision of Chapter 298, Sec. 1, Gen. Laws.

The statute in question is Chapter 1278 of the Public Laws, which is entitled, "An Act to furnish the City of Providence with a Supply of Pure Water." The claim is that the statute is unconstitutional in that it violates the provisions of Articles V and XIV of the Amendments of the Constitution of the United States.

In Joslin Mfg. Co. v. Clark, 41 R. I. 350, decided in 1918, in proceedings between the same parties and upon the same statement of facts as in the present proceedings, we held that said Chapter 1278 was not unconstitutional and was not in conflict with the provisions of Sections 5 or 10 of Article 1 of the Constitution
143 of Rhode Island or with the provisions of Article XIV of the Amendments of the Constitution of the United States.

In the present proceedings it is not now claimed that the act is in violation of any provision of the state constitution, but the claim

is that the act is in violation of Article V and Article XIV of the Amendments of the federal constitution. The only new question thus raised is, Is the act in violation of the provisions of Article V of the Amendments of the Constitution of the United States? The first ten amendments to the federal constitution are restrictions on the powers of the federal government and not upon the powers of the state governments. State v. Paul, 5 R. I. 185 (1858); State v. Keeran, 5 R. I. 497; State v. Flynn, 16 R. I. 10; In re Liquors of Fitzpatrick, 16 R. I. 60; State v. Brown & Sharpe Mfg. Co., 18 R. I. 16; Shaw v. Silverstein, 21 R. I. 500; Opinion to the Governor, 21 R. I. 582; State v. Armeno, 29 R. I. 431; East Shore Land Co. v. Peckham et al. 33 R. I. 541; Barron v. The Mayor & City Council of Baltimore, 7 Peters, 247 (1833). In U. S. v. Cruikshank et al 92 U. S. 542 (1875), Chief Justice Waite, speaking of the first ten amendments, said that they were not intended to limit the powers of the State governments in respect to their own citizens but to operate upon the national government alone and after citing authorities continued as follows: "It is now too late to question the correctness of this construction. As was said by the late Chief Justice, in Twitchell v. the Commonwealth, 7 Wall. 325, 'the scope and application of these amendments are no longer subjects of discussion here.'" See also, Spies v. Illinois, 123 U. S. 166; Brown v. New Jersey, 175 U. S. 174; Twining v. New Jersey, 211 U. S. 78, and cases cited therein.

Our decision is that said Chapter 1278 is not in violation of either Article V or XIV of the Amendments of the Constitution of
144 the United States.

The papers in these causes with our decision certified thereon are ordered to be sent back to the Superior Court for further proceedings.

A true copy.
Attest:
BERTRAM S. BLAISDELL,
Clerk.

145 STATE OF RHODE ISLAND,
Providence, sc:

Superior Court.

Eq. No. 5389.

SCITUATE LIGHT AND POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

Decree.

This cause came on to be heard upon the complainant's bill of complaint and was argued by counsel, and thereupon, upon con-

sideration thereof, pursuant to the decision of the Supreme Court in this cause, C. Q. No. 510, it is ordered, adjudged and decreed that said bill be dismissed, and that the respondents recover from the complainant such costs as shall be properly taxed by the clerk.

Entered as decree of Court this 12th day of August, 1921.

By order,

H. M. PAINE,
Asst. Clerk.

Enter:
SUMNER, *J.*

146 STATE OF RHODE ISLAND,
Providence, sc:

Office of Clerk of the Superior Court.

Equity. No. 5389.

SCITUATE LIGHT AND POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

I, Walter S. Reynolds, Clerk of the Superior Court of said State for the Counties of Providence and Bristol, do hereby certify that the foregoing is a true, full and complete transcript of the record and proceedings in the above entitled cause, and also of the opinion of the Supreme Court of said State as attested by the Clerk of said Supreme Court, as the same now appears on file in my said office, in accordance with the præcipe filed by the plaintiff in error and the stipulation herein.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Superior Court at Providence, in said County of Providence, on this sixth day of December, A. D. 1921.

[Seal of Superior Court of the State of Rhode Island, Providence Plantations, Providence County.]

WALTER S. REYNOLDS,
Clerk.

147 Superior Court of the State of Rhode Island, &c., for the Counties of Providence and Bristol.

Eq. No. 5389.

SCITUATE LIGHT & POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

Assignments of Error.

And now comes Scituate Light & Power Company, Petitioner and Plaintiff in Error by its attorneys, and in connection with its petition for a Writ of Error shows that, in the record and proceedings and in the rendering of final decree of the Superior Court of the State of Rhode Island in the above entitled cause, manifest error has intervened to the prejudice of the above named Petitioner and Plaintiff in Error in this, to wit:

1. That the Supreme Court of Rhode Island in its opinion and the Superior Court of Rhode Island, in its final decree dismissing the bill of complaint herein pursuant to the opinion of the said Supreme Court, erred in holding and deciding that Chapter 1278 of the Public Laws of the State of Rhode Island, passed by the General Assembly of said State, at its January session, A. D. 1915, entitled, "An Act to Furnish the City of Providence with a Supply of Pure Water," approved April 21, 1915, does not violate Article V of the Amendments to the Constitution of the United States and

(*a*) does not deprive the plaintiff in error of its property without due process of law, and

(*b*) does not authorize the taking of the property of plaintiff in error for a public use without just compensation,

2. That the Supreme Court of Rhode Island in its opinion and the Superior Court of Rhode Island, in its final decree dismissing the bill of complaint herein pursuant to the opinion of the said Supreme Court, erred in holding and deciding that Chapter
148 1278 of the Public Laws of the State of Rhode Island, passed by the General Assembly of said State, at its January session, A. D. 1915, entitled, "An Act to Furnish the City of Providence with a Supply of Pure Water," approved April 21, 1915, does not violate Article XIV of the Amendments to the Constitution of the United States, and

(*a*) does not deprive the plaintiff in error of the equal protection of the laws and,

(*b*) does not deprive the plaintiff in error of its property without due process of law.

3. That the Supreme Court of Rhode Island in its opinion and the Superior Court of Rhode Island, in its final decree dismissing the bill of complaint herein pursuant to the opinion of the said Supreme Court, erred in refusing to hold and decide that Sections 1, 3, 4, 5, 6, 8, 21, 23 and 26 of said Chapter 1278 of said Public Laws of Rhode Island, are repugnant to Article XIV of the Amendments to the Constitution of the United States in that

(*a*) plaintiff in error is thereby deprived of its property without due process of law.

(*b*) is thereby deprived of the equal protection of the laws.

4. That the Supreme Court of Rhode Island in its opinion and the Superior Court of Rhode Island, in its final decree dismissing the bill of complaint herein pursuant to the opinion of the said Supreme Court, erred in refusing to hold and decide that Chapter 1278 of the Public Laws of the State of Rhode Island passed by the General Assembly of said State at its January session, A. D. 1915, entitled "An Act to Furnish the City of Providence with a Supply of Pure Water," approved April 21, 1915, violates Article XIV of the Amendments to the Constitution of the United States, and deprives the plaintiff in error of its property without due process of law, and deprives the plaintiff in error of the equal protection of the laws, in that

149 (*a*) its property is allowed by the provisions of said Act, to be taken by the City of Providence under color of eminent domain, when the questions of the necessity of the taking as a whole or of the taking of the various parcels which are taken, have not been decided by the Legislature itself, but have been relegated to the City of Providence to decide ex parte, without appeal, and without an opportunity to have said questions heard and decided by an impartial tribunal.

(*b*) said Act purports to authorize the City of Providence to take possession of plaintiff's property and dispose of the same without offering any compensation therefor, or having any value determined before said taking.

(*c*) said act purports to make the Water Supply Board of the City of Providence created thereunder, sole judge of the question as to whether a part of the north branch of the Pawtuxet River and the watershed tributary thereto, is the most available and desirable source of water supply for said city, without appeal and without any opportunity for the decision of said question by an impartial tribunal.

(*d*) said Act purports to make the City Council of the City of Providence, sole judge of the necessity for the taking of the property of the plaintiff in error and of the extent of such taking, without right on the part of the plaintiff in error to be heard to say that the public use may be fully subserved without taking the property of the plaintiff in error or some part thereof.

(*e*) said Act purports to vest in the City Council of the City of Providence, the right to make final decision as to the necessity for taking the property of the plaintiff in error, and the extent of such taking, upon the ex parte judgment of said City Council.

150 (*f*) said Act purposes to vest in the City of Providence the right to make final decision as to the reasonableness of the taking of the lands purported to be condemned under the Act and as to the purpose for which such lands are held, without appeal therefrom to any disinterested tribunal.

(*g*) said Act purports to permit the City of Providence to take possession of, and use, the property of the plaintiff in error, and to rent, sell and dispose of the same, without offering any compensation therefor, or having any compensation therefor permanently or tentatively determined.

(*h*) said Act fails to provide for a determination by an impartial appraisal of the value of the land of the plaintiff in error before the same is or might be taken, under the power of eminent domain.

(*i*) said Act and especially Section 12 thereof, while providing for payment of the reasonable cost of removing machinery located on property purported to be condemned, to a new location within the New England States, makes no provision for the payment of such reasonable cost of removal to a new location outside of the New England States, although such location outside of the New England States shall be the most available place for its use and although such reasonable cost of removal to such new location outside of the New England States, shall not exceed the cost of removal to a suitable new location within the New England States.

(*j*) said Act and especially Section 16 thereof, while providing for the recovery of damages by the owner or owners of any business located on land purported to be taken by said City under said Act which was established prior to the passage of said Act, makes no provision for the recovery of such damages for any such business which was in good faith established after the passage of said Act, but prior to the purported taking of said land by said City.

151 (*k*) said Act makes no provision for the postponement of the claim for a determination of damages for property purported to be taken under the Act until the right or authority of the City to take, and the regularity and propriety of such taking, have been determined by some judicial tribunal.

(*l*) said Act permits the tax payers of the City of Providence to be burdened by a large and unnecessary expenditure which is not wholly for the benefit of said City, but is in part for the benefit of other municipalities or companies outside of said City, which do not contribute to any portion of the expenditure for said water supply.

(*m*) the provisions of said Act, and particularly Section 18 thereof, by which certain municipalities and water and fire districts, which are located in the drainage district referred to in said Act, are given the right to take and receive certain limited amounts of water on certain terms and conditions specified in said Act, are unreasonable and unjust.

By reason whereof, this petitioner and plaintiff in error prays that the said decree of the Superior Court of the State of Rhode Island dated August 12, 1921 may be reversed, annulled and altogether held for nothing and that this petitioner and plaintiff in error may have such other and further relief according to law as to the court may seem just and proper.

Dated at Providence, Rhode Island, this 10th day of November, A. D. 1921.

ROBERT H. McCARTER,
JAMES HARRIS,
FRANCIS I. McCANNA,
ALFRED G. CHAFFEE,
Attorneys for Petitioner and Plaintiff in Error.

152 [Endorsed:] Eq. No. 5389. Scituate Light & Power Company vs. Walter L. Clarke, City Treasurer, et al. Assignments of Error. Superior Court. Filed Nov. 10, 1921. Walter S. Reynolds, Clerk. Alfred G. Chaffee, Attorney at Law.

153 Superior Court of the State of Rhode Island, &c., for the Counties of Providence and Bristol.

Eq. No. 5389.

SCITUATE LIGHT & POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

Petition for Writ of Error.

The petition of Scituate Light & Power Company by Robert H. McCarter, James Harris, Francis I. McCanna and Alfred G. Chaffee, its attorneys, respectfully shows:

1. That on the 12th day of August, 1921 a final decree dismissing the bill of complaint hereinafter referred to and thereby upholding the constitutionality of the Act of the Legislature of the State of Rhode Island hereinafter referred to, was duly entered by the Superior Court of the State of Rhode Island pursuant to the opinion of the Supreme Court of the State of Rhode Island, the court of last resort therein, (the record from the said the Supreme Court of Rhode Island having been remitted to the Superior Court where the same now remains) in a suit in equity wherein the said Scituate Light &

Power Company was complainant and the City of Providence, a municipal corporation duly created by virtue of and under the laws of the State of Rhode Island, Walter L. Clarke as he is City Treasurer of said City of Providence, B. Thomas Potter, William P. Vaughn, William A. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood and Walter F. Slade, constituting the Water Supply Board of said city, were respondents.

2. That this is a bill of complaint seeking to restrain the respondents from taking possession of complainant's property, comprising numerous large and valuable parcels of real estate consisting of more than twelve distinct tracts of land, with numerous
154 and valuable buildings and improvements thereon, including power houses, plants, transmission lines and valuable and extensive fixtures and fixed machinery, used and utilized in generating and distributing electricity for light, heat and motive power; together with the waters, water rights and privileges connected therewith, located within the drainage district or area which the City of Providence claims to be authorized to condemn and take under the provisions of Chapter 1278 of the Public Laws of Rhode Island, passed at the January session of the General Assembly of the State of Rhode Island, A. D. 1915, entitled "An Act to furnish the City of Providence with a supply of pure water," approved April 12, 1915, the complainant alleging that said act is unconstitutional and void, in that it violates the provisions of Article V of the Amendments to the Constitution of the United States, in that under its provisions the private property of the complainant is being taken for a public use without just compensation, and in that it violates the provisions of Article XIV of the Amendments to the Constitution of the United States, in that under its provisions the complainant is deprived of its property without due process of law, without remedy by recourse to law, and is denied the equal protection of the laws; and that any taking of complainant's property under the purported authorization of the provisions of Chapter 1278 of said Public Laws is unconstitutional, unlawful and void, and would amount to a confiscation thereof.

The respondents, by way of answer, have averred that said act is constitutional and valid, and that they are authorized by virtue of the provisions thereof to enter upon, condemn and take com-
155 plainant's property in fee simple for the purposes specified in said act, and that pursuant to the provisions of said act the property of the complainant, together with that of other owners within the drainage district above referred to, has been duly condemned, and that it is the purpose of the respondents to take possession of the same under the purported authority of said act.

And your petitioner avers that in said bill of complaint it expressly charged that said act is unconstitutional and void, in that it violates the provisions of Article V of the Amendments to the Constitution of the United States, in that under its provisions the private property of the complainant is being taken for a public use without just compensation, and in that it violates the provisions of Article XIV of the Amendments to the Constitution of the United

States, in that under the provisions of the act your petitioner is deprived of its property without due process of law, without remedy by recourse to the laws, conformably to the laws, or by the law of the land, in that its property is allowed to be taken under color of eminent domain by the City of Providence acting under said Act, when the questions of the necessity of the taking as a whole or of the various parcels which are purported to be taken, have not been decided by the Legislature itself, but have been relegated to the City of Providence to decide ex parte, without appeal, and without an opportunity to have said questions heard and decided by an impartial tribunal; that said act is unconstitutional and void, in that it violates the provisions aforesaid of the Constitution of the United States, in that it permits the tax payers of the City of Providence to be burdened by a large and unnecessary expenditure and by
156 an expenditure which is not wholly for the benefit of said City of Providence, but in part for the benefit of other municipalities, outside of the City of Providence which do not contribute to any portion of the expenditure for said water supply; that said act is unconstitutional and void in that it violates said Articles V and XIV of the Amendments to the Constitution of the United States by denying to the petitioner as a person within the jurisdiction of the State of Rhode Island the equal protection of the laws, and depriving it of its property without just compensation.

And your petitioner further avers, that in the aforesaid judgment and proceedings certain errors were committed to the prejudice of your petitioner, all of which will more fully appear from the assignment of errors which is filed herewith.

Wherefore your petitioner prays that a writ of error from the Supreme Court of the United States may issue in this case to the said Superior Court of the State of Rhode Island for the correction of the errors so complained of, and that a transcript of the record and proceedings, and papers in this cause, duly authenticated, be ordered sent to the Supreme Court of the United States, Washington, D. C., as provided by law, and for the usual citation, to the end that, the record and proceedings being inspected, the Supreme Court of the United States may cause further to be done thereon, to correct all errors what of right and according to law and the Constitution of the United States ought to be done; and your petitioner will ever pray.

Dated, Providence, Rhode Island, November 10, 1921.

ROBERT H. McCARTER,
JAMES HARRIS,
FRANCIS I. McCANNA,
ALFRED G. CHAFFEE,
Attorneys for Scituate Light & Power Company, Petitioner and Plaintiff-in-Error.

157 [Endorsed:] Eq. No. 5389. Scituate Light & Power Company vs. Walter L. Clarke, City Treasurer, et al. Petition for Writ of Error. Superior Court. Filed Nov. 10, 1921. Walter S. Reynolds, Clerk. Alfred G. Chaffee, Attorney at Law.

158 Superior Court of the State of Rhode Island, &c., for the Counties of Providence and Bristol.

Eq. No. 5389.

SCITUATE LIGHT & POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

Order Allowing Writ of Error.

On reading of the petition of Scituate Light & Power Company for writ of error, and the assignment of errors, and upon due consideration of the record in said cause;

It is ordered, that a writ of error be allowed from the Supreme Court of the United States to the Superior Court of the State of Rhode Island, as prayed for in said petition, and that said writ of error and citation thereon be issued, served and returned to the Supreme Court of the United States, in accordance with law, upon condition that said petitioner and plaintiff in error give security in the sum of One thousand Dollars, that the said plaintiff in error shall prosecute said writ of error to effect, and, if said plaintiff in error fail to make its plea good, shall answer to the defendants in error for all costs and damages that may be adjudged or decreed on account of said writ of error.

And the said plaintiff in error now presenting a bond in the sum of One thousand Dollars, with The National Surety Company of New York as surety, it is ordered that the same be and hereby is duly approved.

In witness whereof, I have hereunto set my hand this 10th day of November, nineteen hundred and twenty-one.

W. B. TANNER,
Presiding Justice of the Superior Court of the State of Rhode Island.

159 [Endorsed:] Eq. No. 5389. Scituate Light & Power Company vs. Walter L. Clarke, City Treasurer, et al. Order Allowing Writ of Error. Superior Court. Filed Nov. 10, 1921. Walter S. Reynolds, Clerk. Alfred G. Chaffee, Attorney at Law.

160 *Bond.*

Know all men by these presents that we, Scituate Light & Power Company, a Corporation duly created and now existing by virtue of and under the laws of the State of Rhode Island, as Principal, and The National Surety Company of New York, as Surety, are held and firmly bound unto the City of Providence, a municipal corporation duly created by virtue of and under the laws of the State of Rhode Island, Walter L. Clarke, as he is City Treasurer of the City

of Providence, B. Thomas Potter, William P. Vaughn, William A. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood and Walter F. Slade, all of the said City of Providence, in the full and just sum of one thousand dollars, to be paid to the said City of Providence, Walter L. Clarke, B. Thomas Potter, William P. Vaughn, William A. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood and Walter F. Slade, their respective heirs, executors, administrators, successors or assigns; to which payment well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally by these presents. Sealed with our seals and dated the 8th day of November, in the year of Our Lord One Thousand Nine Hundred and Twenty-One.

Whereas the above named plaintiff-in-error, Scituate Light & Power Company, has sued out a writ of error from the United States Supreme Court to the Superior Court of the State of Rhode Island to reverse the judgment and decree of said Superior Court of the State of Rhode Island rendered on the twelfth day of August, A. D. 1921, in the suit of Scituate Light & Power Company vs. Walter L. Clarke, City Treasurer, et al.

Now therefore the condition of this obligation is such, that if the above named plaintiff-in-error shall prosecute its said writ of error to effect, and answer all costs and damages that may be adjudged or decreed on account of said error, if it shall fail to make
161 good its plea, then this obligation to be void; otherwise to remain in full force and effect.

SCITUATE LIGHT & POWER COMPANY,
By WM. H. JOSLIN, [L. S.]
Treasurer.

Witness:
ALFRED G. CHAFFEE.

NATIONAL SURETY COMPANY,
By S. E. DAVIS, [L. S.]
Attorney in Fact.

Witness:
JOHN A. BENNETT.

Approved this 10th day of November, A. D. 1921.
W. B. TANNER,
Presiding Justice of the Superior Court of the State of Rhode Island.

162 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the Honorable the Judges of the Superior Court of the State of Rhode Island, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Superior Court of the State of Rhode Island, before you, or some of you, being the highest

court of law or equity of the said State in which a decision could be had in the said suit between Scituate Light & Power Company, Complainant, and the City of Providence, a municipal corporation duly created by virtue of and under the laws of the State of Rhode Island, Walter L. Clarke, as City Treasurer of said City of Providence, B. Thomas Potter, William P. Vaughn, William A. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood and Walter F. Slade, constituting the Water Supply Board of said City, Respondents, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution,
163 treaties, or laws of the United States, and the decision was in favor of their validity; a manifest error hath happened to the great damage of the said Scituate Light & Power Company, as by its complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within thirty days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable William Howard Taft, Chief Justice of the United States, the tenth day of November, in the year of our Lord one thousand nine hundred and twenty-one.

[Seal of the District Court.]

THOMAS HOPE,
Clerk of the District Court of the United States for the District of Rhode Island.

Allowed by

WILLARD B. TANNER,
Presiding Justice of the Superior Court of the State of Rhode Island.

164 [Endorsed:] Supreme Court of the United States, October Term, 1921. Scituate Light & Power Company vs. Walter L. Clarke, City Treasurer, et al. Writ of error. Superior Court. Filed Nov. 10, 1921. Walter S. Reynolds, Clerk.

165 STATE OF RHODE ISLAND,
Providence, sc:

Office of the Clerk of the Superior Court.

Equity. No. 5389.

SCITUATE LIGHT AND POWER COMPANY

vs.

WALTER L. CLARKE, City Treasurer, et al.

I, Walter S. Reynolds, Clerk of the Superior Court of said State for the Counties of Providence and Bristol, do hereby certify that there were lodged with me as such clerk on November 10, 1921, in the above entitled cause:

1. The original bond of which a copy is herein set forth.

2. A copy of the writ of error as herein set forth, for filing in my said office and one for each of the respondents.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Superior Court, at Providence, in said County of Providence, on this sixth day of December, A. D. 1921.

[Seal of the Superior Court of Rhode Island.]

WALTER S. REYNOLDS,
Clerk.

166 UNITED STATES OF AMERICA, *ss:*

To City of Providence, Walter L. Clarke, as he is city treasurer of said city of Providence; B. Thomas Potter, William P. Vaughn, William A. Schofield, John Kelso, Joseph H. Gainer, Henry A. Grimwood, and Walter F. Slade, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error, filed in the Clerk's Office of the Superior Court of the State of Rhode Island wherein Scituate Light & Power Company is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Willard B. Tanner, Presiding Justice of the Superior Court of the State of Rhode Island, this 10th day of November, in the year of our Lord one thousand nine hundred and twenty-one.

WILLARD B. TANNER,
Presiding Justice of the Superior Court of the State of Rhode Island.

167 Providence, R. I., November 12, 1921.

Due and legal service of the foregoing citation is hereby acknowledged.

ALBERT A. BAKER,
ELMER S. CHACE,
Attorneys for the Defendants in Error.

Copy of Above Acknowledgment of Service.

Providence, R. I., November 12, 1921.

Due and legal service of the foregoing citation is hereby acknowledged.

ALBERT A. BAKER,
ELMER S. CHACE,
Attorneys for the Defendants in Error.

168 Superior Court of the State of Rhode Island, &c., for the Counties of Providence and Bristol.

Eq. No. 5389.

SCITUATE LIGHT & POWER COMPANY (Plaintiff in Error)

vs.

WALTER L. CLARKE, City Treasurer, et al. (Defendants in Error).

Præcipe.

To the Clerk:

You are hereby requested to make a transcript of record to be filed pursuant to writ of error allowed in the above entitled cause, and to include in such transcript of record the following:

(1) Bill of Complaint and Exhibits annexed thereto.

(2) Subpœnas.

(3) Appearance for Defendants.

(4) Defendants' Answer.

(5) Document calling attention of the Superior Court to constitutional questions.

(6) Order certifying constitutional questions to the Supreme Court.

(7) Opinion of the Supreme Court.

(8) Decree of Superior Court dismissing bill of complaint.

(9) Petition for writ of error.

(10) Assignments of error.

169 (11) Bond.

(12) Order allowing writ of error and approving bond.

(13) Citation and acknowledgment of service.

(14) Writ of Error.

Respectfully,

ROBERT H. McCARTER,
JAMES HARRIS,
FRANCIS I. McCANNA,
ALFRED G. CHAFFEE,
Attorneys for Plaintiff in Error.

Assented to:
ALBERT A. BAKER,
ELMER S. CHACE,
Attorneys for Defendants in Error.

170 [Endorsed:] Eq. No. 5389. Scituate Light & Power Company (Plaintiff in Error) vs. Walter L. Clarke, City Treasurer, et al. (Defendants in Error). Præcipe. Superior Court. Filed Nov. 18, 1921. Walter S. Reynolds, Clerk. Alfred G. Chaffee, Attorney at Law.

171 UNITED STATES OF AMERICA,
State of Rhode Island,
Providence, sc:

In obedience to the commands of the within writ, I herewith Superior Court.

transmit to the Supreme Court of the United States a duly certified transcript of the complete record of the proceedings of the within entitled case, Scituate Light and Power Company vs. Walter L. Clarke, City Treasurer, et al., together with all things concerning the same.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Superior Court of the State of Rhode Island, at Providence in said County of Providence, on this sixth day of December, A. D. 1921.

[Seal of Superior Court of the State of Rhode Island and Providence Plantations, Providence County.]

WALTER S. REYNOLDS,
Clerk of Superior Court.

Cost of transcript, $109.95, paid by the Plaintiff in error.

Endorsed on cover: File No. 28,596. Rhode Island Superior Court. Term No. 641. Scituate Light & Power Company, plaintiff in error, vs. City of Providence, Walter L. Clarke, as city treasurer, B. Thomas Potter, et al., &c. Filed December 9th, 1921. File No. 28,596.